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Report of the Panel on the Strengthening of the International Civil Service

Note by the Secretary-General*

Pursuant to section IV of General Assembly resolution 57/285, the report of the Secretary-General conveying the views of the organizations of the United Nations system on the findings and recommendations of the Panel on the Strengthening of the International Civil Service (see A/59/153) is submitted herewith.

* The present report could not be finalized earlier owing to the non-availability of the comments of the International Civil Service Commission on the report of the Panel on the Strengthening of the International Civil Service.

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Comments of the Secretary-General and the United Nations System Chief Executives Board for Coordination on the report of the Panel on the Strengthening of the International Civil Service

I. Introduction

1. The present report is being submitted to the General Assembly pursuant to section IV of resolution 57/285, in which the Assembly endorsed the terms of reference of the Panel on the Strengthening of the International Civil Service, as proposed by the Secretary-General in his report (A/57/612). In the same resolution, the Assembly envisaged a report of the Secretary-General on the findings and recommendations of the Panel, to be considered by the Assembly at its fifty-ninth session, together with the comments of the International Civil Service Commission.

2. The report of the Panel was transmitted to the Assembly via a note by the Secretariat dated 25 June 2004 (A/59/153) and was also forwarded to the Commission for its comments.

3. The Secretary-General and members of the United Nations System Chief Executives Board for Coordination (CEB) welcomed resolution 57/285, in which the Assembly endorsed the launch of the Panel. Having proposed a review of the functioning of the Commission as far back as 1997 in his report entitled "Renewing the United Nations: a programme for reform" (A/51/950), and having been requested to elaborate on his proposal in a series of notes and reports (A/53/688, A/54/483, A/55/526 and A/57/612) submitted to the Assembly at subsequent sessions, the Secretary-General considered it important that the initiative emanate from the Assembly itself and have its unanimous support. Although the orientation and scope of the proposal have evolved over the years, taking into account the comments of the Fifth Committee, the basic aim of maximizing the support the Assembly receives from the Commission in exercising strong, enlightened leadership in relation to the international civil service provided a common theme throughout the reports and notes submitted by the Secretary-General.

4. The progressive evolution in the scope of the proposed exercise that has characterized successive submissions to the Assembly, going beyond the functioning of the Commission itself and covering a broad range of issues affecting the strengthening of the international civil service, should be seen as a positive development that should contribute to enhancing the relevance and impact of the review. This was highlighted in the Assembly's request to the Panel to comment on the main characteristics of the international civil service.

5. In the concluding observations of its report, the Panel recalled that its convening by the Assembly coincided with the launch of a number of major review initiatives and with renewed attention being given by the Assembly and the other principal United Nations organs to reform and the management of change. The Panel perceptively added that while the coincidence may not have been deliberate, the opportunity it offered should not be missed and that although the remit of the Panel had been well circumscribed, the coincidence provided an opportunity for the Assembly to address the role and functioning of the Commission and the further improvements it wished to introduce in the Commission's make-up and modus

operandi, from a broader vantage point than may have prevailed at the time of previous reviews. It also offered the Assembly a precious opportunity to discuss the role and characteristics of the international civil service, including the fundamental principles on which it was based and the ways, within those principles, to adapt its management to changing requirements, in the broader context of the overall effort to enhance the capacity and effectiveness of the system in responding to the new challenges confronting it.

6. The Secretary-General and the members of CEB fully share that perspective and the Panel's expectation that the Assembly would approach the process as a specific but, nevertheless, indispensable contribution to charting the way ahead for the system, recognizing the central place that the strengthening of the international civil service occupied in the international community's overall effort towards the achievement of the goals of the United Nations Millennium Declaration.

7. A specific new feature of the proposal endorsed by the Assembly vis-à-vis earlier proposals was the inclusion in the Panel of the Commission Chairman as an ex-officio member. The intention was to ensure that the Panel's proposals would be based on a full knowledge of the accomplishments and current work of the Commission and, in the first instance, of the intent of the provisions of the statute of the Commission, according to which the Panel conducted its review, as proposed by the Secretary-General and mandated by the Assembly.

8. A copy of the communication received by the Secretary-General, signed by the four members of the Panel and the Chairman of the Commission, as ex-officio member, transmitting the Panel's report, is enclosed (see annex).

II. Comments of the United Nations System Chief Executives Board for Coordination

9. Having carefully reviewed the findings and recommendations contained in the Panel's report, the Secretary-General and members of CEB wish to express their deep appreciation to the Panel for a thoughtful, balanced and constructive report and to strongly commend it to the Assembly. Some of the observations below also address some of the comments of the Commission. While several of the Commission's comments are in the nature of reservations, CEB hopes that the Commission shares its expectation that the Assembly's actions on the issues raised by the Panel will be innovative and far-sighted.

Context of the Panel's review

10. The Secretary-General and members of CEB fully agree with the overall approaches that have guided the Panel in its work. They share the deep sense, highlighted by the Panel, that the United Nations system is at a turning point and also a strong wish to strive for greater relevance and concrete, tangible results to serve as renewed foundations for the future directions of the work of the United Nations system. Most importantly, they hope that the conclusions that the Assembly reaches will be framed around the basic finding set out in paragraph 12 of the Panel report:

> "that the basic principles on which the Charter of the United Nations is based not only retain all their validity but acquire even greater relevance in the new

international environment in which the United Nations system is presently operating. Indeed, in relation to the international civil service, the Charter principles of independence (Article 100) and of the "highest standards of efficiency, competence and integrity" (Article 101) should be the overriding values to which all efforts at advancing a modern international civil service, responsive to the changing demands and requirements of the new century, should be geared."

A. Role and functioning of the International Civil Service Commission

Role of the International Civil Service Commission and the international civil service in changing times

11. The analysis of the Panel rightly points to the crucial role that the Commission is called upon to play in contributing a common framework for the management of human resources within the common system, geared to maximizing the effectiveness and responsiveness of organizations of the United Nations system to the requirements and demands of Member States. Contrary to one of its observations, the Commission's role vis-à-vis the Assembly, as an independent, impartial source of advice and support, is taken into full account and provides the starting point of recommendation 1.

12. Recommendation 1 is introduced by highlighting the basic responsibility of the Commission to support the Assembly in leading the change management processes under way in the system and should be read in conjunction with the observations contained in paragraph 20 and recommendation 2, a recommendation that CEB members fully endorse. There is not, and there should not be, any contradiction between the overriding responsibility of the Commission vis-à-vis the Assembly and the need that the Panel highlights for the Commission to be a proactive partner with the executive heads in the reform process. It is equally important to further strengthen the Commission's technical capacity and policy awareness, as well as to strengthen mutual trust and collaboration, in order to respond effectively to both of those challenges. Recommendation 1 echoes the calls of the Assembly that are embodied in several resolutions it has adopted over the years on the reports of the Commission. In calling for qualitative progress in those directions, the Assembly should insist, in the first instance, on evidence of a deliberate effort towards continuing improvements and consensus-building, an effort that should be at the core of the work of the Commission as a centre of excellence and of the relationship between the Commission and its partners.

Working methods of the Commission

13. The Secretary-General and members of CEB share the assessment of the Panel that recent practices adopted by the Commission, including the establishment of working groups of the Commission, have proved helpful, particularly in improving the consultative process, and should be systematized and reinforced. The view of the Commission that there is no need to formalize those improvements in the Commission's terms of reference is disappointing, as it risks being perceived as calling into question the quality of the Commission's stated commitment to them

and their significance in relation to their underlying intent of enhancing opportunities for dialogue and communication.

14. It is hoped that action by the Assembly on the relevant recommendations of the Panel (recommendations 3 and 4) will serve to reinforce the commitment to nurturing the interest, confidence and trust of all parties, as advocated by the Panel.

Criteria and process for the selection of Commission members

15. The observations and recommendations of the Panel in paragraphs 33 to 39 are crucial to progress in achieving the objective of reinforcing the Commission and its capacity to maximize the support it provides to the Assembly. Far from exceeding the provisions of the statute, they constitute a timely reminder that practices have become, over the years, increasingly distant from the intent of the statute.

16. Member States, organizations of the United Nations system and the Commission share responsibility for a process of selection and consultation that has become progressively distant from the intent of the statute. They all, however, have a major stake in ensuring that that process is improved. All should realize that the status quo always carries the risk of deterioration. Maintaining the status quo is, in any case, hardly in line with the renewed importance that is attached to the work of the Commission in current circumstances. In particular, the Commission should see the call to adhere more closely to the provisions of articles 3 and 4 of its statute not as a reflection on the quality of its current membership but as an integral part of the effort to ensure that the selection and consultation process is in tune with the unique role of the Commission, a role that makes it qualitatively different from any of the other bodies for which elections are held. At a time when the international civil service faces great challenges, it is essential to ensure that Member States place at the disposal of the Commission the best and most appropriate talent they can offer.

17. It is encouraging that the Assembly itself has repeatedly emphasized the need to adhere closely to the provisions of articles 3 and 4 of the statute. Most recently, in resolution 53/209, the Assembly specifically requested the Secretary-General to draw the attention of Member States to the provision of article 3 when presenting candidates for appointment to the Commission. The recommendations of the Panel should be viewed against this background as a positive contribution to the elaboration of procedures that can advance the actual implementation of the Assembly's directives.

18. In recommendation 5, and as set out in annex II of its report, the Panel offers criteria to illustrate the substantial experience of executive responsibility in public administration or related fields, particularly in personnel management, that candidates should possess, according to article 3 of the statute, and recommends that Member States, in presenting candidates, should relate the background of candidates to this experience. In calling for candidatures, the Secretary-General would point to the range of competencies that are relevant to the substantial experience required of members of the Commission under the statute, thus assisting Member States in articulating the presentation of their candidates in relation to the requirements set out in the statute. The Secretary-General would thus be better able to effectively implement the request addressed to him by the Assembly, in its resolution 53/209. In turn, the expectation that the presentation of candidatures should be elaborated in relation to the requirements of the statute would facilitate a selection process at the national level and subsequent intergovernmental consultations that, within the

principle of equitable geographical distribution, would give due weight to the elements of experience envisaged in the statute.

19. A selection process that focused on competencies would also greatly facilitate the task of giving practical effect to the provisions and intent of article 4 of the statute, which calls for the Secretary-General, as Chairman of CEB, to present a list of candidates after "appropriate consultation", not only with Member States but also with the executive heads of the organizations and staff representatives, as it would make it possible for the comments the Secretary-General calls for from these parties to relate, not to the background of candidates in a vacuum, but to their relative qualifications in relation to the requirements of the statute. The consultative process, which is currently largely perfunctory, would become both more feasible and more meaningful. Organizations and staff representatives could provide greater support to Member States in their final selection process, without prejudice to the prerogative and decision-making authority of the Member States. While this process would, as the Commission comments point out, make the procedures for appointment to the Commission differ from other election processes, it is clearly what the statute intended. A competency-based and inclusive selection process would better serve both the basic intent of the provisions of articles 3 and 4 of the statute — to set up a technically highly competent and authoritative Commission whose members command universal confidence — and the intent of the Assembly in its successive calls for closer adherence to those provisions.

20. A consultative process focused on the different, specific experiences of candidates, in line with article 3 of the statute, would also facilitate bringing to the Commission an effective mix of expertise, practical knowledge and experience that would maximize its contribution as both a regulatory and an advisory body, as advocated by the Panel.

21. In recommendation 6, the Panel proposes that, within the terms of article 5 of the statute, an understanding be reached that future appointments would normally be limited to two terms. That recommendation and the transitional arrangements that the Panel proposes are aimed at introducing an appropriate balance between continuity, on the one hand, and facilitating the renewal and updating of expertise, experience and knowledge, as well as maximizing the independence of the individuals appointed, on the other. At a time of rapid change and as part of the effort to maximize the contribution of the Commission to what the Panel referred to as the introduction of cutting-edge human resources policies and practices, this recommendation should be acceptable to the General Assembly.

Frequency and length of sessions of the Commission

22. The executive heads welcome recommendation 7, which would limit the length of the two annual sessions of the Commission to 10 working days each. This reduction in the length of the formal sessions would be in line with the reforms being introduced by many other bodies and would be accompanied by greater resort to working groups and other informal arrangements between sessions. Experience has shown that these informal arrangements have enabled a broader and deeper exchange of views among all interlocutors, leading to the production of such recent major Commission contributions as the code of conduct and the Framework for Human Resources Management. It would also enable senior staff from organizations

to be present throughout the Commission's sessions, which is not practically or financially feasible given the current length of the sessions.

B. Enhancing the capacity of the Commission to strengthen the international civil service

23. The observations and recommendations of the Panel in paragraphs 42 to 63 address the role of the Commission in supporting ongoing efforts to strengthen and modernize the international civil service and to sustain and improve performance and staff morale. The members of CEB concur with the Panel that managing change is a collective endeavour and that the Assembly and executive heads should be able to look to the Commission as an authoritative source of advice on international best practices, innovative approaches and forward-looking human resources management policies and strategies.

24. The Panel's recommendations for strengthening the international civil service are thoughtful and constructive and both responsive to, and supportive of, the reform initiatives under way in most organizations of the system. In particular, the executive heads agree with the Panel on the need for greater focus on performance in the determination of pay; strengthening managerial capacity, including through the development of a senior management service; recognizing the importance and necessity of investing in the continuous learning of staff; promoting best workplace practices that support work/life balance; encouraging mobility; and arriving at contractual arrangements that reflect best practices and are tailored to the needs of a modern global international civil service (recommendations 10 and 13-17). The security and safety of United Nations staff is highlighted in the Panel's report as a major concern around which the efforts of the Commission, the Assembly and the legislative bodies of all agencies and organizations should rally (recommendation 18).

25. The Secretary-General and the executive heads have long advocated updating and expanding the Noblemaire principle to restore the competitiveness of United Nations entities in the international labour market. They share the Panel's concern about erosion in some elements of conditions of employment and welcome the Panel's recommendation for a review of the Noblemaire principle on a priority basis and for the Assembly and other governing bodies to take action to restore and preserve competitiveness in the overall conditions of employment governing the common system (recommendations 11 and 12).

26. The executive heads hope that the Assembly's actions on this part of the report of the Panel will support and complement their efforts to modernize the United Nations workforce and strengthen the international civil service.

III. Conclusions

27. The findings of the Panel, in line with its mandate, cover a wide range of issues. Some of the recommendations are directed specifically at Member States in the General Assembly, while others are addressed more generally to the totality of the system membership; some are addressed to the Secretary-General and others to the totality of the organizations of the United Nations system; and some relate to the

methods of work of the Commission, while others concern the orientations of its work programme. The overall response of the Assembly to the individual recommendations contained in the Panel's report will guide the follow-up by all concerned. The Secretary-General and members of CEB trust that the Assembly's consideration of the matter will enable an open and constructive debate, which will serve both to promote a renewed consensus on the way ahead and to harness the efforts of all towards concrete progress.

28. To this end, members of CEB trust that the Assembly's response:

(a) Will be cast, as indicated above, in the broader context of the many initiatives and efforts under way to enhance the capacity and effectiveness of the system in responding to the major challenges and new demands confronting it;

(b) Will address the strengthening of the international civil service as an integral, key component of the response;

(c) Will reaffirm the continuing validity, and, in particular, the special relevance to today's requirements of the principles and values embodied in Articles 100 and 101 of the Charter of the United Nations;

(d) Will pursue, in this broader context, not only issues relating to the functioning and role of the Commission, but also the Panel's recommendations on human resource policies and practices in the common system and on the orientations that the Assembly, the Commission and the management of organizations could, in the Panel's view, most productively follow in that regard.

29. With particular regard to the recommendations relating to the functioning and role of the Commission itself, the Assembly may wish to reiterate the key contribution that an authoritative Commission — a Commission that, according to the Panel, commanded universal confidence and was conscious of its leadership responsibilities in change management — can make to the strengthening of the international civil service. The Assembly may therefore wish to restate the importance it attaches to issues within the purview of the Commission, in the spirit of recommendation 2 of the Panel's report; recall the new, challenging environment within which the Commission is called upon to exercise its responsibilities, as highlighted in paragraph 30 of the Panel's report; and endorse the proposals in recommendation 1 of the Panel's report as to the main lines that should guide the effort to further strengthen the Commission and its contribution to the strengthening of the international civil service.

30. In the same context, the Assembly may wish to reaffirm the continuing validity of the statute and reiterate its previous calls for closer adherence to the provisions of the statute, including in particular articles 3 and 4 on the process of selection of members of the Commission. In that regard, it may wish to reiterate the request addressed to the Secretary-General, in its resolution 53/209, to draw the attention of Member States to the provisions of article 3 of the statute when presenting candidates for appointment to the Commission, and invite the Secretary-General, when calling for nominations, to assist Member States in that regard by providing criteria illustrating the substantial experience of executive responsibility in public administration or related fields, particularly in personnel management, called for under article 3 of the statute, in the light of the suggestions set out in annex II of the Panel's report. The Assembly may also wish to call on Member States to take into full consideration the requirements set out in article 3 of the

statute when presenting candidates and state its determination to adhere to those provisions in the election process. It may further wish to invite the Secretary-General to strengthen the consultative process under his direction, focusing on competencies as they relate to the requirements of article 3 and to gear the process, in particular, to assisting Member States in ensuring that in the Commission's composition there is what the Panel refers to as an effective mix of expertise, practical knowledge and experience that would maximize its contribution as both a regulatory and an advisory body, including greater gender balance. From the same perspective, the Assembly may wish to give positive consideration to the Panel's recommendation (recommendation 6) advocating a broad understanding regarding the term limitation of appointments to membership to the Commission, including the transitional arrangements proposed in that recommendation.

31. The Assembly may wish to acknowledge the progress made in rationalizing and improving the working methods of the Commission and encourage it to formalize the new practices introduced in recent years, along the lines proposed in recommendation 3 of the Panel's report. It may, in the same spirit, wish to invite the Commission to make greater use of working groups and give further consideration to the frequency and length of its sessions, as proposed in recommendations 4 and 6, as part of the overall effort to further strengthen the consultative process and enhance cost-effectiveness.

32. As indicated above, the broader recommendations of the Panel, which are aimed at enhancing the capacity of the Commission to strengthen the international civil service, are in line with the reform processes under way in most of the organizations of the system and relate to policies and practices that are, for the most part, being addressed, albeit with varying degrees of priority, in the work programme of the Commission. The Assembly may wish to express support for the relevant reform processes under way within the system and provide overall policy guidance to the Commission in pursuing the different dimensions of these policies and practices in its own work programme. The Assembly may also wish to express the hope that progress on the relevant review exercises under way in the Commission be accelerated, taking into account the interrelationships among the issues involved and their relative impact on enhancing competitiveness, productivity and effectiveness in the international civil service.

Annex

Letter dated 6 July 2004 from the members of the Panel on the Strengthening of the International Civil Service and the Chairman of the International Civil Service Commission to the Secretary-General

We greatly appreciated the opportunity to serve on the Panel on the Strengthening of the International Civil Service and, thus, make a contribution towards reform and renewal in the United Nations system.

We approached our task from the perspective of the evolving global situation, the challenges it involves for the response capacity of the system and the many initiatives that you and other executive heads have launched to address the situation and help chart the way ahead. We were guided in this endeavour by your repeated assertion that, in the fulfilment of the United Nations system's mission, its staff remains its most valuable asset.

We focused, from this perspective, on the changing demands that the present international juncture is posing on the functions and capacity of staff and the implications for the basic principles on which the international civil service is founded. We strongly felt that the principles of independence and of the "highest standards of efficiency, competence and integrity", set out in Articles 100 and 101, respectively, of the Charter of the United Nations, not only retain all their validity, but acquire even greater relevance in the new international context, and call on all concerned — Member States as well as executive heads — to recommit themselves to these basic principles.

We concluded that competitive conditions of employment, together with effective human resources management based on modern management practices, are crucial elements for strengthening the international civil service. We were concerned, in this context, at recent trends towards the erosion of some conditions of employment and recommended that they be reversed.

The General Assembly has repeatedly reaffirmed the central role it expects the International Civil Service Commission to play as an independent, technical body in the regulation and coordination of conditions of service in the common system. Recognizing the crucial contribution it can and should make to the strengthening of the international civil service and bearing in mind our mandate, we focused on the Commission's role and functioning. We believe it essential that the Commission should not only command universal confidence in the regulation of compensation and other conditions of service, but also provide leadership in staff management by bringing added value and promoting the introduction of cutting-edge human resources policies and practices.

Our review of the functioning of the Commission, carried out within the context of its statute, indicated that a key element in this regard is the quality of its membership. We concluded that this can be assured through a more rigorous application of the requirements and process of consultations for membership in the Commission, as set out in articles 3 and 4 of its statute — a responsibility that is shared by Member States and also by the Secretary-General, as Chairman of the United Nations System Chief Executives Board for Coordination (CEB). We contributed some criteria relating to the members' qualifications that are fully in line

with the provisions of the statute and should facilitate implementing both the letter of its provisions and their spirit and intent. We also offered recommendations regarding the length of the terms of office, the duration of the Commission meetings and the functioning of the consultative process in the Commission's work.

We hope that our report will serve to support and complement efforts to modernize the United Nations system workforce and how it is managed. Our unanimous conclusions and recommendations were made possible by the commitment to team work and the excellent spirit of cooperation and mutual understanding and accommodation that prevailed throughout all of our discussions. We are also grateful for the support we received from the secretariats of the Commission and of CEB and the Secretary of CEB.

(*Signed*) Mary **Chinery-Hesse**

(*Signed*) Ernst **Sucharipa**

(*Signed*) Mohsen **Bel Hadj Amor**

(*Signed*) Philippe **Rochat**

(*Signed*) Anatoly V. **Torkunov**

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Financial reports and audited financial statements, and reports of the Board of Auditors

Financial reports and audited financial statements and reports of the Board of Auditors for the period ended 31 December 2003

Report of the Advisory Committee on Administrative and Budgetary Questions

1. In accordance with regulation 7.12 of the Financial Regulations and Rules of the United Nations, the Advisory Committee on Administrative and Budgetary Questions received copies (in advance form) of the financial reports, audited financial statements and reports of the Board of Auditors to the General Assembly for 16 organizations of the United Nations common system for the biennium ended 31 December 2003. In addition, the Committee had before it the report on the accounts of the voluntary funds administered by the United Nations High Commissioner for Refugees for the year ended 31 December 2003. A list of the organizations audited by the Board appears in annex I to the present report. The report of the Board of Auditors on the accounts of the United Nations peacekeeping operations for the financial period from 1 July 2002 to 30 June 2003 (A/58/5, vol. II) was considered by the Advisory Committee at its session in February and March 2004 (see A/58/759). The audited accounts of the World Food Programme (WFP) for the biennium 2002-2003, which are not covered by the Board of Auditors, are currently under consideration by the Committee. Its comments and observations will be communicated to the Executive Board of WFP through its Executive Director. The Committee expects to revert to the observations and recommendations of the Board of Auditors as well as the other issues discussed in its reports on the financial statements of funds and programmes during the Committee's review of the biennial budgets of the organizations for the next fiscal period.

2. The observations and comments of the Advisory Committee on the report of the Board of Auditors on the United Nations Joint Staff Pension Fund for the biennium ended 31 December 2003 will be submitted separately to the General Assembly at its fifty-ninth session in a report that will include the Committee's

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recommendations on the report of the United Nations Joint Staff Pension Board (A/59/9). The Committee will consider the audit reports of the International Criminal Tribunal for Rwanda (A/59/5/Add.11) and the International Tribunal for the Former Yugoslavia (A/59/5/Add.12) in the context of its review of the reports of the Secretary-General on biennial budgeting at the International Tribunals (A/59/139). The Board of Auditors also submitted to the Committee its report on the capital master plan for the biennium ended 31 December 2003 (A/59/161). The Committee will consider that report in the context of the report of the Secretary-General on the capital master plan.

3. The Advisory Committee had advance copies of the concise summary of principal findings, conclusions and recommendations contained in the reports prepared by the Board of Auditors for the General Assembly at its fifty-ninth session (A/59/162) and advance copies of the reports of the Secretary-General on the implementation of the recommendations of the Board of Auditors on the accounts of the United Nations, the United Nations funds and programmes and the International Tribunals for Rwanda and the Former Yugoslavia for the financial period ended 31 December 2003 (A/59/318 and Add.1). The reports include replies of the administration to the observations of the Board of Auditors, which in some cases were included in the Board's final report, as well as additional information on measures taken to implement the recommendations of the Board. In most cases the administrations have concurred with the recommendations of the Board and have proceeded as and where appropriate to implement them. In instances where the administrations do not agree with the recommendations of the Board or are unable to begin implementation, they have provided an explanation.

4. During its consideration of the reports, the Advisory Committee met with the members of the Audit Operations Committee, who provided additional information and clarification.

A. General

5. **The Advisory Committee acknowledges the continued improvement in the structural presentation of the Board's reports as well as the greater clarity and transparency of the Board's observations and recommendations on highly technical issues.** The reports include, as in the past, a summary of main findings together with a short overview of the recommendations made. The Board has also commented on the status of the implementation of previous recommendations in the main body of the individual reports, where applicable, in line with the suggestions made by the Committee.

6. The reports of the Board of Auditors included observations and recommendations on a number of cross-cutting matters for various United Nations organizations, such as presentation of financial statements; non-expendable equipment; liabilities for annual leave, end of service and post-retirement benefits; training; governance review; results-based management and budgeting; internal oversight; treasury and investment management; consultants, experts and temporary assistance; procurement; human resources management and payroll systems; and cases of fraud and presumptive fraud. **The Advisory Committee welcomes this audit approach of common themes across United Nations entities, while noting that not all recommendations apply equally to all entities and that, in some**

cases, some recommendations may not be applicable to some entities or may have already been partly implemented by some. The Committee believes that further examination of cross-cutting issues may result in further streamlining of the reports of the Board, facilitating their consideration by the General Assembly.

7. The Advisory Committee was informed that the Board had spent more than 2,225 person weeks on audits during the audit cycle for 2002-2003. This included the peacekeeping audits but excluded senior management time, general coordination, assistance and training. During the audit period, the Board issued more than 215 management letters to organizations on deficiencies in programme and financial management, which the Board considered to be, in some cases, of lesser importance and therefore not necessary to be included in its reports to the General Assembly. **The Advisory Committee encourages the Board to continue to examine the scope and the number of the issues that should be addressed to the administration in management letters, with the view to further streamlining the audit reports submitted to the General Assembly.**

8. The Advisory Committee was informed of the progress made by organizations in implementing the Board's previous recommendations. For the biennium 2000-2001, 171 (46 per cent) of the 376 recommendations were fully implemented and 177 (47 per cent) were in the process of being implemented, while only 28 (7 per cent) had not been implemented by May 2004.

9. The Advisory Committee notes that, although the statistical approach followed to monitor the actions taken by organizations in regard to implementation of the Board's recommendations shows some progress, it may be misleading in the case of some organizations. There is a need to refine the criteria to evaluate results of the implementation of the Board's recommendations. Moreover, the Committee observes that in some instances the recommendations of the Board are presented in very general terms, are sometimes reiterations of previous recommendations or, in several cases, are clusters of various recommendations. **The Advisory Committee encourages the Board to continue to monitor progress made by organizations in refining the criteria and systems to evaluate results of its recommendations as well as in formulating its recommendations so that organizations implement them within a predetermined time frame. In this connection, it would be helpful if new recommendations of the Board could be separately identified.**

10. **The Advisory Committee stresses the need for full and timely implementation of the recommendations of the Board and other oversight bodies. The Committee recommends that the United Nations and its funds and programmes take concrete steps to make significant progress in implementing the recommendations of their oversight bodies and, as necessary, indicate to their governing bodies the constraints that hamper full implementation of the recommendations.**

11. **In the view of the Advisory Committee, a statistical approach may not be sufficient to monitor the follow-up of the implementation of oversight bodies in many instances. From its consideration of the reports of the Board and the exchange of views with the Audit Operations Committee, the Committee concludes that there is still a need for further efforts to develop a strong culture of accountability within the United Nations and its funds and programmes. The efficient management of the United Nations and its funds and programmes**

requires that the implementation of the Board's recommendations become an integral part of the work plans, activities and processes of the organizational units concerned, while tools to measure and assess the impact of the Board's recommendations must also be developed. The Committee believes that the administrations should continue to introduce and strengthen effective monitoring tools as well as to assign responsibility at the highest level of their management structure for implementation and follow-up of the Board's recommendations.

12. **The Advisory Committee encourages the Board of Auditors to continue its coordination and collaboration with other oversight bodies, including the Office of Internal Oversight Services, internal audit services of the United Nations funds and programmes and the Joint Inspection Unit, in order to avoid duplication of efforts and ensure optimal use of audit resources. The Committee trusts that this approach will result in better complementarity of efforts and wider and deeper coverage of audit areas.**

B. United Nations

13. The main recommendations of the Board on the accounts of the United Nations for the financial period ended 31 December 2003 are indicated in its report (A/59/5, vol. I, chap. II, para. 15). In the paragraphs below, the Advisory Committee highlights a number of key issues concerning the United Nations, and in section C below it comments on specific matters concerning United Nations funds and programmes.

Trust funds

14. Sixty-three trust funds of the United Nations, with combined reserves and fund balances of $54.1 million as at 31 December 2003, did not show any expenditure for the biennium 2002-2003 except for transactions pertaining to the investment and related accounts. The Board of Auditors reiterated its recommendation for previous bienniums that the Administration should take action to review trust funds whose purposes have long been attained in order to identify and close those that are inactive and no longer required (A/59/5, vol. I, chap. II, para. 15 (c)). The Committee understands that the solution for this long-outstanding issue involves steps to be taken by Member States, conveying certain concrete instructions to the Administration with regard to monies in inactive and no longer required trust funds. **The Committee expects the Secretariat to take more proactive measures in the consolidation and closure of these inactive trust funds. Member States should be advised on a regular basis, and prior to the closing of the account for the biennium, of the status of unutilized balances that may no longer be required. A cut-off period could be established for returning unutilized balances to donors or for channelling balances to finance other activities as agreed with donors.** The Committee recalls that, with regard to peacekeeping trust funds, noticeable progress was made by the Department of Peacekeeping Operations, with the collaboration of the relevant Member States, to close a number of inactive trust funds (see A/58/5, vol. II, chap. II, paras. 41-45). **The Committee believes that other units of the Secretariat could learn from the experience of the Department of Peacekeeping Operations.**

End-of-service liabilities

15. For the United Nations, the estimated liabilities for after-service health insurance accrued annual leave and termination benefits amounted to $1.7 billion as at 31 December 2003. The Board observed that the United Nations has not specifically recognized liabilities for after-service health insurance costs or the liabilities for other types of end-of-service payments. The Board recommended that the United Nations review the funding mechanism for end-of-service and post-retirement benefits liabilities (A/59/5, vol. I, chap. II., paras. 46 and 47). The Committee acknowledges the importance of the issue, which has been addressed by the Board in previous bienniums. The Committee was informed that progress has been made in some funds and programmes (see para. 38 below). The Committee was informed that future liabilities for the United Nations and its funds and programmes exceeding $3 billion were unfunded at 31 December 2003. A breakdown of the information provided to the Committee is included in annex II to the present report. **In the Committee's view, the matter deserves serious consideration by the administrations of the organizations in an expeditious and coordinated manner.** The Committee recalls that in its resolution 58/249 of 23 December 2003, the General Assembly requested the Secretary-General to report to the Assembly on the full extent of unfunded staff termination and post-service liabilities in the United Nations and its funds and programmes and to propose measures that would ensure progress towards fully funding such liabilities. The Committee will revert to the matter during its consideration of the report of the Secretary-General on this subject.

Information and communications technology

16. The Advisory Committee was informed that the Board of Auditors continued to examine matters related to information and communications technology (ICT) throughout the Secretariat and in some funds and programmes (see also paras. 40-43 below). The Board reviewed ICT strategies in 23 entities with direct ICT expenditures in excess of $700 million over two years (see A/59/5, vol. I, chap. II, paras. 73-154). The Board recognized that there have been recent initiatives to improve ICT coordination but pointed out that a comprehensive, United Nations-wide initiative should be undertaken to coordinate efforts on ICT strategy and developments (see A/59/162, para. 118). **The Advisory Committee endorses this view.**

17. The Board of Auditors has addressed several issues that have been the concern of the Advisory Committee in recent years. For example, during its consideration of the United Nations regular budget for the biennium 2004-2005, the Committee was concerned with issues such as governance of ICT, cost-benefit analyses of IT applications and the need to establish a portfolio of IT assets. The Board has noted that the United Nations has no agreed model of what to include under "the cost of ICT". In the absence of such definition, the Secretariat does not have a comprehensive view of the total cost of ICT. It cannot compare such costs internally or with other points of reference. The Committee notes that the ICT network, created recently as part of the United Nations System Chief Executives Board for Coordination to coordinate ICT activities across the United Nations system, has recognized the problem, but has yet to provide a solution (A/59/5, vol. I, chap. II, para. 87). The Committee is aware of the importance of costing of ITC for benchmarking and financial analysis as well as for planning and budgeting. **The Committee endorses the Board's recommendation that the United Nations**

should adopt and implement a uniform methodology for determining the total cost of ICT, with a view to improving the decision-making process (A/59/5, vol. I, chap. II, para. 89). In paragraph 41 below, the Committee comments on specific matters related to coordination of ICT in United Nations funds and programmes audited by the Board.

Budget recosting methodology

18. Pursuant to General Assembly resolution 58/270 of 23 December 2003, the Board of Auditors examined the recosting methodology of the United Nations regular budget. Recosting of the budget entails the revision to budgeted estimates on the basis of adjustments to costing parameters. These adjustments would take into account currency fluctuations, inflation and changes in staff costs and vacancies. The Board considered that the budget methodology currently in place at the United Nations was reasonable (A/59/5, vol. I, chap. II, paras. 155-171).

19. Costs arising from changes in vacancy currency fluctuations and inflation may entail additional expenditures of the budget that need to be accommodated. These additional expenditures, which are not currently covered by either the contingency fund or a specific section in the programme budget, are appropriated and assessed every year. In order to absorb the additional expenditures without having to go through multiple assessments on Member States, the Board recommended that the Administration resubmit to the General Assembly its proposal for the establishment of an operational reserve (A/59/5, vol. I, chap. II, paras. 172-175). Subject to any decisions reached by the Assembly at the time of its consideration of the report of the Board of Auditors, the Committee intends to revert to the issue of the establishment of an operational reserve and examine the proposal of the Secretary-General in the context of its consideration of the proposed programme budget for the biennium 2006-2007.

Results-based budgeting and programme management

20. In the past, the Advisory Committee has welcomed the increasing practice of the Board of Auditors to expand performance audit. The Committee has encouraged the Secretariat to continue to develop and improve performance measurement standards that could facilitate the task of the performance audit by the Board. In this connection, the Committee has encouraged the Board to pay particular attention to reported expenditures and their relationship to programme delivery (see, for example, A/55/487, para. 14). In its report (A/59/5, vol. I, chap. II, paras. 176-196), the Board discusses the link between financial accomplishments (budget compared to expenditures) and physical/technical accomplishments (in relation to targets with actual accomplishments), based on data on the programme performance of the United Nations for the biennium 2002-2003 (A/59/69). Overall, 99.89 per cent of the total appropriation was utilized for the biennium 2002-2003, whereas the average delivery of outputs for the biennium was 84 per cent. **The Committee concurs with the view that "raw" comparisons of such percentages do not provide meaningful information and that what is needed is further efforts to refine the results-based budget methodology, in particular performance indicators and measurements of expected accomplishments, in some departments to enable a linkage, where appropriate, of the financial and technical aspects of the programmes.**

Procurement

21. **The Advisory Committee endorses the recommendations of the Board on procurement planning contained in its report (A/59/5, vol. I, chap. II, para. 216). The Committee agrees with the Board that a well-developed procurement plan facilitates an efficient procurement process, reducing the frequency of small purchases, and results in cost and time savings. Implementation of the Board's findings in this area needs to be addressed as a matter of urgency.**

22. **The Advisory Committee welcomes the efforts by the Procurement Division to monitor the submissions of procurement plans by requisitioning offices to ensure the completeness and reliability of the data submitted (see A/59/5, vol. I, chap. II, para. 215).**

23. The Advisory Committee notes that the Procurement Division, in cooperation with the United Nations Office of Project Service and the Inter-Agency Procurement Service Office, started work to review the current vendor management systems utilized by all the organizations within the United Nations system, as well as those used by other entities in the private and public sector. **The Committee welcomes the Administration's intention to share the findings with other organizations of the United Nations system with the view to utilizing the outcome to develop a harmonized or common vendor programme management system (A/59/5, vol. I, chap. II, para. 225). The Committee has encouraged sharing the best practices and reforms in procurement that may be available in entities of the United Nations (see A/55/487, para. 13). With regard to developing a harmonized vendor programme management system, the Committee cautions that in order to attain this goal and avoid serious obstacles, proper analysis should be done first with regard to the compatibility and interaction of information systems used by agencies and other entities, as well as differences in the "coding" systems used in various vendor management systems.**

Training

24. In its review of the management of staff training, the Board of Auditors focused on the economy and efficiency of administrative processes. The pedagogical contents of training were not reviewed. The Board explained that this would have required specialized resources beyond the scope of the review. The Board found that priority and perspective conferred by senior management on training and staff development at the time of its review were generally adequate. Training managers and units provided instances of successful knowledge-sharing and delivery although they were often deficient in policy-setting and planning (A/59/5, vol. I, chap. II, paras. 245 and 246).

25. The Advisory Committee has commented extensively on weaknesses pertaining to staff training activities and programmes of the United Nations (see, for example, A/58/7, paras. VIII.32-VIII.33, and A/58/759, paras. 75-78). The Committee notes that the Board confirmed that the existing management information systems, whether computerized or not, and as applied to training expenditures, did not always provide sufficient data to lead to well-informed planning decisions and monitoring. Furthermore, the lack of a comprehensive database on training history of each staff member could lead to inaccurate identification and assessment of staff training needs (A/59/5, vol. I, chap. II, para. 247).

26. The Advisory Committee notes from the Board's report (A/59/5, vol. I, chap. III, para. 249 (e)) that, after the audit, the Human Resources Network of the High-Level Committee on Management endorsed an organizational learning framework aimed at sharing and developing training practices and tools system-wide. **The Committee trusts that this will lead to better inter-agency coordination and benchmarking and the application of consistent system-wide methods for developing and sharing materials or rosters of training providers among entities in the United Nations.**

27. The Advisory Committee has been concerned about the inadequacy of evaluation systems for monitoring the efficiency and effectiveness of training programmes and the fact that individual staff members may be receiving multiple training courses that may not be related to their area of responsibility. The Committee has indicated the need to assess whether or not training programmes meet individual and organizational goals and the need to ensure that the staff performance appraisal system is properly used to identify training requirements and evaluate achievements of individual staff members (A/58/759, para. 77). The Board of Auditors has confirmed that for some entities in the United Nations system the evaluation of training programmes is inadequate. The measurement and the benchmarking of the effectiveness of training is being carried out, although not extensively. **The Committee agrees with the view that this could impair results-based budgeting and the successful attainment of goals.** The Board also found that the relationship of the performance appraisal system and the training plans was not clear. It confirmed that there is room for improvement in the management and coordination of staff training in order to better align the staff resources of the United Nations with its mission, culture and structure (A/59/5, vol. I, chap. II, paras. 249 (g) and 253).

Consultants

28. The Board of Auditors reiterated its recommendation that the Administration continue to assess and monitor strict adherence to the administrative instructions on hiring, remunerating and evaluating the performance of consultants (A/59/5, vol. I, chap. II, para. 256). The Board found continued lack of compliance by some substantive offices at United Nations Headquarters as well as at offices away from Headquarters and at regional commissions with administrative instructions on consultants and individual contractors. **The Committee remains concerned with the findings of the Board, as indicated in paragraph 255 of its report. This is an area where the Administration needs to develop a strong culture of accountability and to take corrective action to implement the recommendations of the Board as a matter of priority.**

C. Funds and programmes

29. The Board of Auditors issued unqualified opinions for the following organizations of the United Nations system: the International Trade Centre UNCTAD/WTO, the United Nations Children's Fund (UNICEF), the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), the United Nations Institute for Training and Research (UNITAR), the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Environment Programme (UNEP), the United Nations Centre for Human

Settlements (UN-Habitat) and the United Nations University (UNU). For the United Nations Development Programme (UNDP), the United Nations Population Fund (UNFPA) and the United Nations International Drug Control Programme (UNDCP), the Board issued unqualified opinions, but drew attention to findings of significant matters, as indicated below (for explanatory notes provided by the Audit Operations Committee on the different types of audit opinions see A/57/439, annex). The Board of Auditors was unable to express an opinion on the financial statements of the United Nations Office for Project Services (UNOPS) for the biennium 2002-2003 as it was unable to obtain adequate assurance on the imprest account balances, inter-office vouchers clearing accounts, inter-fund balances and non-expendable equipment. The Board was also unable to confirm that the value of separation cost was valid, accurate and complete (A/59/5/Add.10, chap. II, summary, and chap. III, audit opinion) (see also paras. 49 and 50 below on the situation in UNOPS).

30. **As can be seen in a number of instances contained in the paragraphs below, there is a general need for funds and programmes to pay strict attention to the full and complete applications of existing resolutions and rules.**

Non-expendable equipment

31. In the case of UNDP, UNFPA and UNOPS, the Board modified its opinion on the financial statements of these organizations, drawing attention to the fact that it was unable to obtain assurance to verify the validity, accuracy and completeness of non-expendable equipment, amounting to $149.3 million for UNDP, $57.5 million for UNFPA and $10 million for UNOPS. The Board also noted weaknesses in the control of non-expendable equipment at the United Nations, UNICEF, UNHCR, UNEP, UNRWA, UNOPS and UN-Habitat. The aggregated value of the non-expendable equipment of the United Nations and its funds and programmes amounted to approximately $1.1 billion as at 31 December 2003, as disclosed in the financial statements of the organizations audited by the Board (A/59/162, paras. 25 and 26).

32. The Advisory Committee remains concerned with the weaknesses in the control of non-expendable equipment, including inventory management, which appear to be of a problem of semi-permanent nature in most organizations of the United Nations system. **The review by the Committee of these issues in various organizations shows that, although in some cases a lack or inadequacy of proper information management systems may have aggravated the situation, it is necessary for the administrations to strictly adhere to the rules, regulations and procedures that have been promulgated and issued.**

Outstanding advances

33. The Advisory Committee notes with concern the continued lack of consistency among organizations in both the accounting treatment of nationally executed expenditure as well as the procedures for accountability. These are issues that have been the concern of the Committee for a number of years (see, for example, A/57/439, para. 26, and A/55/487, paras. 34 and 35). UNDP, UNFPA and UNDCP provide funds to implementing partners through advances recorded as receivable. Expenditures are recorded only when implementing partners submit detailed reports of delivery for the period. Both UNICEF and UNHCR provide direct cash assistance to their implementing partners. Cash assistance has been recorded directly as

expenditure when the funds were transferred to the implementing partners. The Committee is concerned with the balances relating to advances (UNDP, UNFPA and UNDCP) and cash assistance not yet justified from implementing partners (UNICEF and UNHCR) reported by the Board, amounting to about $426.7 million as at 31 December 2003, as well as the level of advances and unjustified cash assistance written off by the organizations, amounting to $20.7 million (A/59/162, para. 41).

34. In the case of UNDP, the lack of assurance that could be obtained by the Board of Auditors regarding the proper utilization of funds provided for nationally executed expenditure also led it to emphasize such concern in its audit report on the UNDP financial statements for the period ended 31 December 2003 (A/59/5/Add.1, para. 115, and chap. III, audit opinion).

35. Detailed information on the modalities of resource transfer of these organizations is contained in the concise summary report (A/59/162, annex IV). The Board has noted that although some organizations, for example UNHCR, have made improvements to monitor cash remittances to implementing partners (see A/59/5/Add.5, chap. II, paras. 70-73), further efforts are needed in most organizations on internal control measures to ensure that funds are utilized in nationally executed projects for the objectives for which they were approved (see, for example, A/59/5/Add.1, chap. II, para. 115). **The Committee agrees with the Board's view that funds and programmes should continue their efforts to harmonize their accounting treatment and procedures and further improve their internal controls with regard to nationally executed programmes (A/59/162, para. 36).**

Inter-agency fund balances

36. The Advisory Committee was informed that, between the accounting records of the United Nations Headquarters and UNDP, there was a difference of $22.43 million in the amount owed to UNDP by the Organization. The Board was unable to examine the reconciling reports for the amount owed to UNDP because the records were not available at United Nations Headquarters. The Committee notes that the discrepancy appeared to be an accumulation of reconciling items over a number of years in the financial statements for technical cooperation activities (A/59/5, vol. I, chap. II, para. 34). **The Committee shares the concern of the Board in paragraph 84 of its report A/59/5/Add.1 that differences between the inter-agency balances of UNDP and the United Nations may be misstated for lack of supporting documentation. The Committee understands that UNDP expects to remedy the situation of reconciliation of inter-agency balances with the implementation of its enterprise resource planning system, the Atlas system, which became effective in January 2004.**

37. In the case of UNFPA, the Board of Auditors modified its audit opinion on the financial statements for the period ended 31 December 2003, indicating that inter-agency balances of UNFPA with United Nations agencies implementing UNFPA-funded projects may not be accurate. Differences in balances between UNFPA and various United Nations agencies were long outstanding and could not be readily explained. **The Committee endorses the view of the Board that the matter should be resolved expeditiously by UNFPA in conjunction with the agencies concerned (see A/59/5/Add.7, chap. II, para. 57, and table 2).** The Committee understands that differences in the inter-fund account with UNDP could be partially

attributable to the legacy systems used by UNFPA. The Committee trusts that, with the implementation of the Atlas system in 2004 (see para. 43 below), such differences in the inter-fund account with UNDP will no longer arise since the postings to the various inter-fund accounts will be performed automatically by the system (A/59/5/Add.7, chap. II, paras. 52 and 53, and chap. III, audit opinion).

End-of-service liabilities

38. As noted in paragraph 15 above, some funds and programmes have made progress in the area of funding of end-of-service liabilities. In 2003, UNICEF established a reserve for after-service health insurance, with an initial amount of $30 million, against a liability evaluated at $182.5 million, and UNDP set aside an accumulated amount of $108 million at the end of the biennium against an estimated liability of $263 million as at 31 December 2003. As was the case for the United Nations mentioned above, the Board of Auditors reiterated its recommendation that the United Nations funds and programmes review the mechanism and targets for providing for liabilities for annual leave, end-of-service and post-retirement benefits (A/59/162, paras. 30-34).

Unliquidated obligations

39. The Board of Auditors reiterated its concern about the extent of continued overstatement of unliquidated obligations in UNHCR and in UNDP-administered funds (for example, UNCDF) where the Board was not provided with valid obligating documents for raising obligations in the books of these organizations (A/59/5/Add.5, chap. II, para. 55, and A/59/5/Add.1, chap. II, para. 68). In the case of UNDCP, the Board modified its audit opinion, drawing attention to the lack of procedures ensuring completeness and timeliness in the recording of field obligations (A/59/5/Add.9, chap. II, paras. 42-47, and chap. III, audit opinion). **The Advisory Committee remains concerned about the levels and validity of year-end unliquidated obligations in several United Nations organizations, which casts a doubt on their validity in the financial statements. The Committee stresses that the administrations concerned must strictly adhere to their own financial rules as well as review their procedures in order to ensure compliance with the accounting standards of the United Nations.**

Information and communications technology

40. As indicated above, the Board of Auditors reviewed the management of the ICT strategies across the United Nations and its funds and programmes focused on the economy and efficiency of the processes that support the ICT strategy. The Advisory Committee has also been concerned with the large number of incompatible ICT solutions in the organizations of the United Nations system, which represent costly investments on the part of Member States. These entities largely have common financial and personnel rules and programmes and activities in the same geographical areas. The Joint Inspection Unit has also indicated in its report (A/58/82) that multiple solutions of ICT represent substantial expenditures, estimated to be in the range of about $1 billion over the last decade. Moreover, some agencies (for example, UNHCR) have not clearly documented the investment in ICT for the period 1994-2003 (A/59/5/Add.5, chap. II, para. 143).

41. The Board of Auditors has confirmed the need for greater inter-agency cooperation on ICT matters, particularly in the light of the commonality under the United Nations system (A/59/162, para. 96). At present, only a few organizations of the United Nations system have documented ICT strategies; there is no United Nations system-wide formal method for the evaluation of ICT investments and expenditures; and the system does not have a comprehensive view or the total cost of ICT (A/59/162, paras. 97 and 99). No common solution has been sought among the various entities with a significant number of field offices. For example, peacekeeping operations have implemented IMIS; UNICEF implemented its own enterprise resource planning solution at its headquarters (with a separate system for the field offices) several years ago; UNHCR developed and implemented its own enterprise resource planning system in relative isolation from other United Nations entities (A/59/5/Add.5, paras. 135 and 144-147); and, as mentioned below, UNDP, UNFPA and UNOPS are beginning to implement the Atlas system. The Committee was informed that organizations often claim that their state of IT development, needs, "business model", governance and standards might not be relevant or cost-effective for another organization. Because they have a perceived need for custom development to support specific processes and rules, they have not shared, to a significant degree, economies of scale or returns on experience, which could have already occurred at the development stage.

42. On the positive side, the Committee was informed that the ICT Network created recently as part of the High-Level Committee on Management of the United Nations Chief Executives Board for Coordination has adopted some initiatives towards the implementation of a United Nations Extranet and search engine, as well as towards common approaches on information security, procurement and knowledge-sharing. **The Committee joins the Board in its recommendation that a more proactive approach needs to be taken in the coordination of ICT efforts in the United Nations and its funds and programmes to ensure that the approach taken is cost-effective and meets the requirements of organizations and other Member States (A/59/162, para. 118).**

43. In January 2004, UNDP, in partnership with UNFPA and the United Nations Office for Project Services, began to implement the Atlas system. This enterprise resource planning system has introduced new technologies aimed at streamlining processes and assisting in changing environments for managing information and replacing a proliferation of often non-compatible legacy systems. In the recent past, the Committee was briefed on the implementation of the Atlas system at UNDP and on the tools available in the system to enhance UNDP's ability to manage financial, project and human resources data. The Committee notes that, although progress has been made by these organizations in introducing the Atlas system, the Board of Auditors modified its audit report on the financial statements of UNDP, UNFPA and UNOPS, drawing attention to the finding that there were internal control deficiencies and, in particular, no independently validated internal control framework for the system, which would adequately mitigate its control risk (see A/59/162, paras. 109 and 110).

Human resources

44. The Advisory Committee recalls that the authority to approve and modify the United Nations staff regulations rests with the General Assembly and the authority to issue and effect changes in the staff rules with the Secretary-General. The

Committee has, however, pointed out that in the latter case the General Assembly exercises legislative oversight over all personnel matters, including the staff rules (see General Assembly resolution 37/235 C of 21 December 1982 and the report of the Advisory Committee A/37/675). **The Advisory Committee shares the concern of the Board of Auditors that UNICEF has continued to apply a special operations living allowance created by a former UNICEF Executive Director.** The Board found that the expenditure for this allowance doubled to $6.9 million during the biennium 2002-2003, partly due to deviations from the United Nations mission subsistence allowance. **The Committee endorses the recommendation of the Board that UNICEF should consistently apply the Staff Regulations and Rules of the United Nations, including allowance schemes.**

45. While most organizations of the United Nations system have drafted rotation policies, in general they have not applied them consistently. With regard to performance appraisal systems, although progress has been made, there is no system-wide common practice. **The Committee shares the concern of the Board that, where appropriate, efforts should be made by the organizations of the United Nations system to consistently implement their staff rotation and appraisal policies, avoiding the risk of an adverse impact on staff efficiency and effectiveness (A/59/162, paras. 124-126).**

Consultants

46. Several organizations continue to show weaknesses in the implementation of their policies and procedures regarding utilization of consultants, experts and temporary assistance personnel. These include weaknesses in the hiring and reviewing and monitoring performance. In some organizations, performance evaluations were not always completed for consultants contracted under special service agreements. In others, a number of consultants were utilized to perform regular staff functions and time frames for the accomplishment of tasks were not always defined. Moreover, instalment payments to consultants were not always supported with progress accomplishments reports and payments were made to consultants without contracts being signed by either party (see A/59/162, paras. 138-142). **The comments of the Committee, as indicated in its comments on the United Nations Secretariat in paragraph 28 above, are equally applicable to the funds and programmes. The organizations of the United Nations system must develop a culture of accountability and comply with the Staff Rules and Regulations of the United Nations and established procedures for hiring, remunerating and evaluating the performance of consultants.**

Travel

47. The Advisory Committee was informed that some organizations incur financial losses due to non-compliance with their travel policies and procedures, in particular as a result of weaknesses in travel planning and late submission of travel requests and travel claims to settle travel advances. In one organization travel claims to settle travel advances were submitted late, between 30 and 90 days after completion of the travel. In some cases travel claims were only completed following the Board's audit, even though the travel had been undertaken earlier in the year. **The Committee strongly supports the recommendation of the Board of Auditors that organizations should monitor the timely submission of travel claims, follow up on outstanding claims to fully recover all travel advances and, as appropriate,**

refrain from authorizing additional travel advances if previous travel claims have not been submitted (A/59/5/Add.7, chap. II, paras. 239-246).

United Nations House initiative

48. **The Advisory Committee is concerned that at present UNHCR does not have a clear picture of the numerous buildings it uses worldwide and that no proactive policy has been put in place to comply with the United Nations instructions on common premises at the country level, whenever feasible.** Currently, UNHCR owns only two field offices buildings, among its more than 200 field locations, and has no policy regarding purchase of premises as opposed to renting them. UNHCR has status as a unit of the Secretariat of the United Nations and the relevant provisions of General Assembly resolutions apply without the need for any submission to its governing body (see A/59/5/Add.5, chap. II, paras. 128-130). The Committee has recently reviewed the UNHCR programme budget for 2005 and has brought to the attention of the Executive Committee of UNHCR the recommendations of the Board of Auditors regarding the need to comply with the directives of the United Nations with regard to common premises in the field.

The situation of the United Nations Office for Project Services

49. In addition to being unable to express an opinion on the financial statements of UNOPS for the biennium 2001-2003 for the reasons indicated above, the Board of Auditors also emphasized its concern that UNOPS may not be able to fund any future deficit in full from its operational reserve owing to its weak financial position as at 31 December 2003 and the possibility that it may not be able to meet its 2004 targets. In the view of the Board, the ability of UNOPS to continue as a going concern is dependent on many variables, including the extent of the increase in the cost of the Atlas system, change management costs and further materially unfavourable currency fluctuations. UNDP, which has continued to be the largest client of UNOPS, decreased its outlay to the Office by 18 per cent, from $61.5 million in 2000-2001 to $50.2 million in 2002-2003 (see A/59/5/Add.10, chap. II, summary, and paras. 40 and 41 and figure 2).

50. The Advisory Committee takes note of the progress report of the Executive Director on the activities of UNOPS submitted to the second regular session 2004 of its Executive Board (DP/2004/45). In his report, the Executive Director outlines the initiatives that will be taken to comply with the recommendations of the Board (ibid., paras. 10 and 11). UNOPS will present an action plan, including an update on progress in its implementation, at the January 2005 session of the Executive Board. **The Committee intends to revert to these issues in the context of its review of the biennial budget of UNOPS for the biennium 2006-2007.**

The Provident Fund of the United Nations Relief and Works Agency for Palestine Refugees in the Near East

51. The Provident Fund is a scheme established in 1955 by the Commissioner-General, and placed under the administration of UNRWA's Treasurer, for the purpose of providing benefits to eligible local staff members upon their separation from service. In its report on the accounts of UNRWA for the biennium ended 31 December 2003, the Board of Auditors commented in detail on weaknesses in the operations of the UNRWA Provident Fund and made recommendations to address

shortcomings in the management of the Fund (see A/59/5/Add.3, chap. II, paras. 105-145). **The Committee endorses the recommendations of the Board that the Provident Fund should expedite the finalization of a consolidated set of regulations and rules and take immediate steps to correct the deficiencies in the Fund's management mentioned in the findings of the Board.**

Annex I

Reports of the Board of Auditors

(Period ending 31 December 2003)

Organization	*Document symbol*
United Nations	Supp. No.5 (A/59/5), Vol. I
International Trade Centre UNCTAD/WTO	Supp. No.5 (A/59/5), Vol. III
United Nations University	Supp. No.5 (A/59/5), Vol. IV
United Nations Development Programme (UNDP)	Supp. No.5A (A/59/5), Add.1
United Nations Children's Fund (UNICEF)	Supp. No.5B (A/59/5), Add.2
United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)	Supp. No.5C (A/59/5), Add.3
United Nations Institute for Training and Research (UNITAR)	Supp. No.5D (A/59/5), Add.4
Voluntary Funds administered by the United Nations High Commissioner for Refugees (UNHCR)	Supp. No.5E (A/59/5), Add.5
Fund of the United Nations Environment Programme (UNEP)	Supp. No.5F (A/59/5), Add.6
United Nations Population Fund (UNFPA)	Supp. No.5G (A/59/5), Add.7
United Nations Human Settlements Programme (UN-Habitat)	Supp. No.5H (A/59/5), Add.8
Fund of the United Nations International Drug Control Programme (UNDCP)	Supp. No.5I (A/59/5), Add.9
United Nations Office for Project Services (UNOPS)	Supp. No.5J (A/59/5), Add.10
International Criminal Tribunal for Rwanda	Supp. No.5K (A/59/5), Add.11
International Tribunal for the Former Yugoslavia	Supp. No.5L (A/59/5), Add.12
United Nations Joint Staff Pension Fund[a]	Supp. No.9 (A/59/9)
Capital master plan	A/59/161
Concise summary of the principal findings, conclusions and recommendations of common interest, classified by audit area, contained in its report prepared by the Board of Auditors for the General Assembly	A/59/162

[a] The Board also examined the accounts of the United Nations Joint Staff Pension Fund. The audit report thereon will be included in the report of the United Nations Joint Staff Pension Board.

Annex II

Liabilities for annual leave, end-of-service and post-retirement benefits

(In millions of United States dollars)

Organization	*Annual leave*	*Repatriation*	*After-service health*	*Total*
International Criminal Tribunal for Rwanda	8.3	6.0	13.1	27.4
International Tribunal for the Former Yugoslavia	5.2	4.8	9.4	19.4
International Trade Centre UNCTAD/WTO (ITC)	2.2	5.3	31.2	38.7
United Nations	105.0	95.0	1 484.0	1 684.0
United Nations Compensation Commission	1.6	3.1	0.5	5.2
United Nations Human Settlements Programme (UN-Habitat)	Not available	Not available	Not available	-
United Nations International Drug Control Programme (UNDCP)	Included in repatriation	9.6	1.3	10.9
United Nations Development Programme (UNDP)	21.5	22.8	263.2	307.5
United Nations Environment Programme (UNEP)	Not available	Not available	Not available	-
United Nations Population Fund (UNFPA)	6.4	7.3	69.5	83.2
Office of the United Nations High Commissioner for Refugees (UNHCR)	47.0	250.0	256.0	553.0
United Nations Children's Fund (UNICEF)	33.0	33.9	182.5	249.4
United Nations Institute for Training and Research (UNITAR)	0.3	0.5	0.9	1.7
United Nations Office for Project Services (UNOPS)	2.1		37.6	39.7
United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)	See total	See total	See total	147.3
United Nations University	1.4	1.7	1.7	4.8
Total	**234.1**	**440.1**	**2 350.9**	**3 025.0**

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Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Human rights defenders

Note by the Secretary-General*

The Secretary-General has the honour to transmit to the members of the General Assembly the report submitted by the Special Representative of the Secretary-General on human rights defenders, Hina Jilani, in accordance with General Assembly resolution 58/178.

* This report is delayed in submission to reflect updated information.

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Summary

Human rights defenders fulfil a fundamental role in the protection and realization of human rights and in attaining the goals of the United Nations, whether in the context of poverty alleviation, humanitarian assistance, development or other domains. From this perspective, the Special Representative expresses deep concern at the continuing high level of violations committed against defenders around the world and hopes that States will take stronger action, including with the support of United Nations bodies, in implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

The objective of the report is to look beyond specific violations and identify the absence of safeguards or the failure of institutions and agencies of the State that "allow" violations to occur in the first place. By identifying these weaknesses and formulating recommendations, the report urges States to meet their commitment to human rights defenders, as reflected in successive General Assembly resolutions, and to strengthen implementation of the Declaration.

The report presents examples of the most common violations recorded against human rights defenders. These include arbitrary arrest and detention, prosecution and pre-trial detention, violations of physical integrity and harassment. The factors that allow the violations to occur include weaknesses in the law and legal processes, limitations on the competence and independence of the judiciary, the lack of awareness or accountability among local authorities for the respect of international human rights standards, and weaknesses in civil society.

The report lists the groups of actors most commonly responsible for violations of defenders' rights. It suggests actions that can be taken to overcome the systemic weaknesses leading to the violations, including a much wider dissemination and use of the Declaration, strengthened training on the Declaration for the judiciary, suitable legislative reform, wider citizen participation, greater oversight by parliamentary bodies and better interministerial coordination.

The report focuses special attention on the freedom of association because of the multiple ways in which this right is restricted and its centrality to the effective work of defenders. The report describes the increasing adoption by States of "NGO laws" to regulate the work of non-governmental organizations — legislation which, in many instances, has been used to restrict human rights activities in violation of the Declaration. The report examines the different obstacles that human rights defenders, whether working within national or international organizations, face in the exercise of their freedom of association including: the criminalization of non-registered human rights groups; unnecessarily burdensome and lengthy registration procedures; limits on the creation of networks; inappropriate denial of registration; limited independence of registration authorities; requirements to re-register when new legislation is introduced; State scrutiny of and interference with an organization's management, objectives and activities; administrative and judicial harassment; restrictions on access to funding; restrictions on cooperation with international human rights partners.

The report concludes with examples of good practices and recommendations that would address the concerns identified.

Report of the Special Representative of the Secretary-General on human rights defenders, Hina Jilani

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I. Introduction

1. Human rights defenders are fundamental actors in any effort to implement the overall international human rights framework. Their work is essential to the achievement of all the core objectives of the United Nations and its Member States at their national level. Establishing and sustaining democracy, maintaining international peace and security and advancing the agenda for development, as prioritized in the Millennium Development Goals, cannot be accomplished without the contributions that human rights defenders make in their varied fields of activity. Defenders bring to the fore information on the realities of situations to be addressed without which national and international efforts would be ineffective. They contribute to poverty alleviation, humanitarian assistance, post-conflict reconstruction, and to improving individual indicators of development such as access to health care and adult literacy, among many other activities.

2. In recognition of this critical role and the difficulties that defenders face in fulfilling it, the General Assembly, by resolution 53/144 of 8 March 1999, adopted the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, known as the Declaration on human rights defenders, whose provisions provide a firm basis in international human rights law for the support and protection of human rights defenders. Subsequent resolutions (see in particular resolution 58/178 of 22 December 2003) call for action by States and United Nations bodies to support the Declaration's implementation.

3. Some States have taken action to implement the Declaration and to support and protect human rights defenders in their work. Some action has been also been taken regionally: the Inter-American Commission on Human Rights now has a well-established human rights defenders unit; the African Commission on Human and Peoples' Rights has this year established the mandate of Special Rapporteur on human rights defenders; and the European Union, also this year, adopted guidelines on human rights defenders. In 2003, the Fifth International Conference on New and Restored Democracies (Ulaanbataar, 18-20 June 2003) made a strong reference to the Declaration on human rights defenders in the Conference's own concluding declaration. There has been some effort made within the United Nations system to support the Declaration and the mandate of the Special Representative on human rights defenders. Human rights civil society is increasingly aware of the Declaration and the rights it enshrines.

4. However, in spite of these signs of progress, the Special Representative continues to register the most serious violations of the Declaration, which appear only to have increased in the six years since the instrument was adopted by the General Assembly. The reality that defenders confront in many countries of the world is that their protection, through laws, policies and practices and the creation of effective mechanisms, has yet to be achieved. In addition, the oppression of defenders is typically an indicator of a much wider lack of respect for human rights within a State and is directly proportional to this wider situation.

5. In this report, the Special Representative looks beyond specific violations to examine why they are able to occur, highlighting the absence of safeguards or the failure of institutions and agencies of the State to create a secure environment for

the defence of human rights. A separate section focuses on the freedom of association because of the multiple ways in which this right is restricted.

II. Applying the Declaration

6. Patterns of violations, as reflected in the information received by the Special Representative, make it possible to identify key factors that threaten the security of defenders and undermine their work. It is impossible to effectively implement the Declaration without giving due consideration to these factors and adopting concrete measures to overcome their adverse impact on human rights activities.

A. The context of responsibility

7. There are several levels of responsibility in applying the Declaration. The active presence of human rights defenders is essential to development and international peace and security, and in situations where respect for civil, cultural, economic, political and social rights are limited there is a particular need for a strong contribution from defenders. However, in the same situations where defenders are needed most, they are hindered in their efforts as a result of the limitations imposed upon them by a restrictive environment that fails to respect human rights. Initiatives to support development and peace and security must, therefore, recognize both the essential role of defenders and their simultaneous need for support. International initiatives, including those involving multilateral institutions, foreign policy, or security and development cooperation among States, must be sensitive to the need and the responsibility to incorporate, within the initiatives themselves, support for the implementation of the Declaration.

8. The responsibility to "create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice" (article 1 of the Declaration; see also paragraph 7 of the Preamble) rests primarily with the State. This responsibility includes the elimination of impunity. While acts and omissions of the State remain the primary source of violations against human rights defenders, actions by non-State actors that harm them and obstruct their work are increasing. There is growing urgency to apply the Declaration fully in the contexts of impunity, of State and non-State actors, and with regard to the Declaration's focus, in its article 18, on "safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes".

9. The Special Representative considers that a precondition for the achievement of any progress in the implementation of the Declaration or success in putting in place effective laws, policies or mechanisms for the protection of defenders is the good faith and firm commitment of States towards this end. The Special Representative is aware that some of the factors that she has already highlighted in her reports are rooted in situations such as armed conflict, religious and ethnic tensions, an increase in acts of terrorism and other difficult challenges for Governments. Nevertheless, these difficulties cannot be used as justifications for

non-compliance. Any attempt to do so would undermine the very spirit of the Declaration.

B. Types of violations

10. The Special Representative describes below some of the cases reported to her that illustrate the factors undermining the security of defenders and the implementation of the Declaration. The nature of the abuse that occurs, the prevalence of certain forms of violations, the actors involved and the State's response all illustrate the problems in the structures and systems of governance that allow abuses to occur and the lack of sufficient safeguards, means of prevention and redress.

1. Arbitrary arrest and detention

11. Arbitrary arrest, sometimes followed by the misuse of the law to detain, prosecute and imprison human rights defenders, is the single most common violation recorded by the Special Representative. She has received many reports of defenders being held in incommunicado detention and in poor conditions. Arrests are commonly carried out without warrants, with no charges ever formally pressed, legal representation and family visits sometimes denied and defenders subjected to beatings or even torture. An arrest, or even the threat of arrest, can effectively end whatever human rights activities a defender is engaged in and also divert the resources of the defenders' organization, and the rest of the human rights community, away from other human rights concerns.

12. In one common example, a human rights defender and election monitor noted what he considered to be serious violations of electoral procedures during a parliamentary election. When he reported the violations to a State election commission, he was arrested by police and accused of obstructing the election process. He was subsequently detained.

13. In another instance, several human rights defenders were reportedly arrested and detained by police two days after participating in a peaceful demonstration against human rights abuses and restrictions on democratic practices. The arrests were carried out without warrants and the defenders were allegedly punched and slapped on the head and kicked in their genitals by police officers. The defenders were interrogated without their lawyers, who in turn were not given access to information they needed to prepare an adequate legal defence for the subsequent trials of the defenders on charges of "anti-State" activities.

14. A journalist who had focused on human rights abuses in his work was arrested at the airport while on his way to attend a conference on freedom of the press. Several of the defenders who attended the 2004 session of the Commission on Human Rights as NGO representatives visited the Special Representative's office to report that, following their departure from their home countries, security officials had visited their homes or offices and questioned their families and colleagues about what the defenders were going to do at the Commission, leading the defenders to fear possible arrest upon their return.

2. Prosecution and pre-trial detention

15. Even where defenders are formally prosecuted or detained, multiple violations of human rights are frequently inherent in the process itself.

16. In June 2003, a journalist published a report on the allegedly poor working conditions in the mines in his country, leading to some deaths of miners. A week later he was convicted by a court of defamation and sentenced to five years' imprisonment. In another country a large number of human rights defenders and political activists were arrested and tried in closed courts a month later. The courts handed down sentences ranging from 6 to 28 years' imprisonment for alleged harm to the independence, dignity and sovereignty of the State.

17. In another instance, a human rights defender helped farmers' representatives write petitions to the national parliament and to the Government protesting State confiscation of land; he also helped to disseminate, via the Internet, information on the farmers' demonstrations and other protests. He was arrested and prosecuted in a trial that was closed to the public and sentenced to 12 years' imprisonment.

3. Physical integrity of defenders

18. The violation of the physical integrity of defenders takes the form of killings, attempted killings, torture, beatings, death threats and disappearances.

19. The Special Representative received information indicating that a man who had allegedly witnessed people being killed by execution squads whose members included off-duty policemen presented his information personally to the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions when she visited his country. Four days later, two men on a motorcycle wearing masks rode up to him in a busy city street and shot him twice in the head, killing him.

20. Another human rights defender working as a volunteer collecting information on human rights abuses in a zone of internal armed conflict was beaten up at home by a large group of soldiers, who then took him away. Six days later the defender's body was found near a highway. His arms and legs were broken and his body had been punctured in numerous places by a sharp object. He had a bullet wound in the back of his head.

21. In another country, in December 2003, a representative of a farming trade union was shot dead. He was the fourth representative of the union to die in a 12-month period. A human rights defender and president of a trade union who had been working for improved working conditions in the garment industry of his country received several death threats, which were reported to the police. In January 2004, shortly after 9 a.m., he was shot and killed by two unidentified men in the city centre.

22. In March 2004, a human rights defender who had been investigating alleged torture of detainees by police left his home and has not been seen since. A government investigation led to the arrest of a number of police officers, who were later released. In January 2004, a woman human rights defender was pulled off the street by unidentified men and forced into a red van. She was driven around the city for some time, while the men poured boiling water on her feet and warned her to stop her activities on behalf of a women's rights organization. The chairman of a human rights organization that had distributed a country human rights report to

diplomatic embassies was accused in national newspapers of anti-State activities and on the same day, the defender was attacked by four men and severely beaten, leaving him in critical condition.

4. Harassment

23. Harassment is used as a means of silencing human rights defenders and deterring them from carrying out their activities. Methods of harassment include involving defenders in criminal prosecution or civil litigation, often for libel and defamation. These prosecutions have at times led to heavy sentences of imprisonment or fines. Other modes of harassment are verbal abuse and threats of harm to defenders, their families and lawyers, or witnesses. Intimidation and coercion have been used to pressure defenders to violate client confidentiality or to retract statements exposing human rights abuse. Some defenders have been harassed on their way to attend a human rights event or their identity papers were confiscated.

24. A human rights lawyer and president of an association dedicated to combating torture, returning to her country from international human rights events, was repeatedly stopped at the airport by customs officials, who read through her documents and confiscated some publications. A human rights NGO reporting on instances of torture and political violence and providing assistance to victims was included on a list published by the Government of organizations considered to be a threat to national peace and security. A few months later, allegations were printed in the State-controlled media accusing the organization of being involved in violent attacks.

25. Two human rights defenders heading different human rights NGOs that had reported alleged human rights violations by the authorities were subsequently referred to by a State official on a State-owned television channel as "enemies of the State". The official also gave out the home telephone number of one of the defenders. Within a few days the offices of both organizations were attacked by large groups of men. The firm providing security to one of the offices was advised by the Ministry of the Interior to withdraw its services, and the defenders' family members were accused of being unpatriotic by neighbours.

C. Factors responsible for violations

Human rights reporting at national or international levels

26. Human rights defenders are almost always targeted because of activities related to the gathering of information, or when they actually move to report human rights violations. Governments tend to react more aggressively when reports address politically sensitive issues, and they sometimes deliberately create a climate of sensitivity around a particular issue in order to silence criticism or dissent or to deter human rights defenders from taking up the subject. National security or ideology, religious belief or cultural specificity is frequently used to label defenders exposing violations as unpatriotic, anti-State or sacrilegious.

27. Defending human rights becomes more risky when there is a lack of transparency on the part of the Government and the right of access to information and the freedom of expression or assembly is either not protected or not respected.

Turning the law against human rights defenders

28. While defenders are often harmed by totally arbitrary actions, in many instances the law and legal processes are misused to harass or punish defenders for their human rights activities, complicating the search for measures to protect them. Defenders have been prosecuted for undertaking activities that are well within the scope of human rights monitoring and advocacy legally protected by the Declaration. Prosecutions are pursued using domestic laws that either directly contravene the principles of the Declaration and other international human rights instruments or contain provisions that can be interpreted, for political or other reasons, in such a way that in practice contravenes these international standards. Legislation on security, public order, defamation and libel has been widely used in this respect.

Independence of the judiciary

29. A vigilant, independent and competent judiciary is an effective check on the abuse of law and provides security for human rights activity against the effects of oppressive laws and practices. However, violations occur within the legal process itself because of the lack of adequate judicial scrutiny and the failure of judges to recognize human rights activity and reject attempts to restrict it. Many of the violations brought to the attention of the Special Representative would not have been possible without an unacceptable level of tolerance by the judiciary of illegal procedures targeting human rights defenders.

The responsibility of local authorities

30. Local authorities often fail to realize that the principle of "State responsibility" with respect to human rights extends to all tiers of government and is therefore binding upon local authorities as well. While several countries have human rights mechanisms and other institutional arrangements at the national level, only a few have any effective operational human rights protection systems at the local level, leading to much reduced oversight of the exercise of authority. As a vast majority of human rights defenders are engaged in activities in the local context, safeguards for their protection must be fully operational at the local level as well.

The role of the media

31. Government officials, sometimes at the highest level, have used the State-controlled media in a manner that has made defenders vulnerable to attack by other political or social forces, for instance, political parties, religious fanatics or vigilantes, or has caused social isolation of defenders by frightening people away from associating with them. This becomes more probable in the absence of independent media sensitive to human rights that can counter the effects on defenders of government propaganda. In some situations, social actors or corporate entities have also used the media to undermine human rights and malign human rights defenders. The role of the media in protecting or endangering human rights defenders cannot, therefore, be underestimated.

Government response to human rights concerns

32. Activities for the promotion and protection of economic, social and cultural rights are increasingly challenging development paradigms, economic policies and

decisions on the distribution and utilization of natural resources. It is becoming increasingly difficult for Governments to respond to popular demands in this area because international, more than internal factors, are determining the direction of policies. The inability or unwillingness of Governments to accommodate popular demands has resulted in repression. If there existed processes through which broad human rights concerns affecting society could be effectively raised, the risk to the human rights defenders who raised them would be much reduced.

Absence of popular support for human rights issues

33. Popular support for the activities of defenders has, in many situations, provided them with a barrier against State repression. In contrast, raising human rights concerns that are not popular among the majority — such as the rights of religious or ethnic minorities, migrants and, in some social contexts, women — places human rights defenders at greater risk. In these situations the role of the State in creating an enabling environment for defenders to work and providing protection where needed becomes even more important.

Weakness of civil society

34. It cannot realistically be expected that protection systems at the national level will function effectively without an aware, strong and active civil society. The credibility of NGOs, particularly those working in the field of human rights, contributes to the strength of civil society and improves the prospects of influencing State conduct. Transparency in their operations, relevance to people's rights and freedoms of the issues raised and, more importantly, linkages with a rights-based movement have helped NGOs to gain credibility.

D. Core problems: the actions of authorities

State policy or individual action?

35. In a vast majority of cases violations could not have occurred without the participation or complicity of State officials. In some instances State policies are directly responsible for the manner in which officials react to activities carried out by human rights defenders. In others, the decision to target defenders is taken by individuals, or is a local policy rather than a national and institutional response.

The absence of oversight or safeguards

36. In all cases, however, the lack of oversight by superior officials, monitoring bodies, the judiciary and prosecutors is glaringly apparent, as individuals and mechanisms fail to comply with the law and with procedures. The failure of police to record arrests and the absence of judicial scrutiny of the charges or grounds for arrest before issuing arrest warrants or making remand orders are examples of aberrations that make arbitrary arrest, improper detention or torture possible. The situation is worse where the military exercises functions normally in the purview of the police. Security considerations often allow military forces to operate in secrecy in their operations and exempt them from respecting normal safeguards. The military often has no human rights training and seldom interacts with human rights defenders.

Impunity

37. Regardless of whether the threat emanates from State authorities or non-State actors, complaints by defenders are ignored or not properly investigated. The Special Representative has received multiple complaints of defenders having reported incidents that remained uninvestigated and that led to subsequent attacks and more serious harm.

E. Actors responsible for violations

38. Where acts against defenders related to their human rights activity are repeated over a period of time and in several parts of the country it is likely that the acts themselves form part of a policy for which the national political authorities must bear responsibility.

39. The Special Representative has noted a very distinct pattern of regular and systematic abuse of power by State officials operating under the authority of the Ministries of the Interior, Justice and Defence. More specifically, the key State actors responsible for committing or failing to address violations against defenders are: the police, military and other security forces; prosecutors; judicial officers; revenue officials; and authorities responsible for the registration of NGOs. Policy initiatives or practical measures for the implementation of the Declaration and for creating and strengthening protection systems for defenders must, therefore, begin with these agencies.

F. Actions that could overcome the problems identified

The status of human rights defender

40. Greater recognition of the status and role of human rights defenders could provide a basis for their protection and for the implementation of the Declaration. Recent initiatives at the national and international levels show ways in which the protection of defenders can be formalized, such as the declaration adopted by the Federal Parliament of Germany on human rights defenders and the guidelines on human rights defenders adopted by the European Union in 2004.

Dissemination and training on the Declaration

41. Wider knowledge and better understanding of the Declaration would enable relevant institutions, agencies and authorities to apply norms or provisions specific to defenders more easily. Awareness of and directives for the observance of the principles relating to the activities and protection of defenders must reach all authorities and State officials at the local level. Greater familiarity on the part of judges, in particular with the types of activity protected by the Declaration, could help them to quickly identify human rights defenders, exercise greater scrutiny to ensure that human rights activity is not the reason for prosecuting defenders and to apply the Declaration when appropriate. Enhancing the sensitivity and capacity of judges in this regard would contribute to reducing the impunity of State and non-State actors who violate the rights of defenders. Training for subordinate and local judiciaries and encouraging appropriate forms of interaction between them and

human rights defenders have been suggested to the Special Representative as a means of fostering such sensitivity within the judiciary.

Strengthening national legislation and its application

42. Ensuring that domestic legislation is compatible with international human rights law and that it is properly enforced would enhance implementation of the Declaration and protect defenders against many of the acts to which they are vulnerable. Laws guaranteeing freedom of information and expression provide defenders with a strong legal basis for their human rights monitoring.

Public participation mechanisms

43. Some national constitutions provide for greater direct participation of citizens in the design of public policy, for example, through the requirement that public hearings be held before major projects affecting a locality or class of people are approved. Formalizing the role of human rights defenders in such procedures in countries where they exist could enhance recognition of their work and lead to a more secure environment for their activities, in particular with regard to the promotion and protection of economic, social and cultural rights.

State oversight and coordination mechanisms

44. Better coordination between interministerial human rights bodies, oversight by parliamentary committees or by national human rights commissions or other similar mechanisms and clearly stated mandates for the protection of human rights defenders could make these State bodies more credible and of more practical use. Parliamentary committees for human rights could make bipartisan efforts to protect human rights by holding hearings where human rights defenders could bring up issues of concern and bring human rights violations to the attention of the committees. The establishment of transparent and publicly accountable mechanisms to investigate and address complaints against the police and the military, and the access of human rights defenders to such mechanisms, has brought about improvements. Above all, these mechanisms must be required to respond to public concern by, at the very minimum, explaining State actions or omissions.

The international community, including the United Nations

45. Much greater vigilance and strict action in response to Governments that carry out reprisals against those reporting on human rights violations in their countries, including to international bodies, is the most basic responsibility of the international community towards human rights defenders. The Commission on Human Rights and the General Assembly must take note of several such incidents reported by the human rights special procedures mandate-holders in the past year.

III. Meeting the standards of the right to association contained in the Declaration

46. Freedom of association involves the right of individuals to interact and organize among themselves to collectively express, promote, pursue and defend common interests. Articles 22 of the International Covenant on Civil and Political

Rights, 8 of the International Covenant on Economic Social and Cultural Rights, 11 of the European Convention on Human Rights, 10 of the African Charter on Human and Peoples' Rights and 5 of the Declaration on human rights defenders all guarantee this right.

47. Freedom of association is at the heart of an active civil society and a functioning democracy. In her 2004 report to the Commission on Human Rights (E/CN.4/2004/Add.1), the Special Representative reported on communications sent with regard to some 566 defenders, 442 of whom were members of NGOs, trade unions, or professional associations. During the first four years of her mandate, the Special Representative sent an increasing number of communications regarding alleged violations of defenders' right to freedom of association, with 40 cases sent in 2003 on this subject alone

48. While in most countries, the right to freedom of association is constitutionally guaranteed, information received by the Special Representative indicates a notable increase in the number and the range of infringements of the exercise of this right, resulting in serious obstacles to the work of human rights defenders. Within the last 10 years, many countries have adopted or drafted new national legislation to regulate the creation and operation of NGOs and other associations. In a majority of countries, these new laws were adopted after 2001 and stricter rules were legitimized by counter-terrorism and security considerations. In practice, they have limited defenders' freedom of association and increased the regulatory powers of the State. In many cases, these new laws have provided the State with the means to crack down on anyone critical of governmental action. In a few cases, they have been used by Governments to put an end to human rights activities through legal action. As of August 2004, the Special Representative had sent communications to seven countries (Belarus, Egypt, Georgia, Turkmenistan, the United Republic of Tanzania, Uzbekistan and Zimbabwe) where the legislation in place raises particular concern for the work of human rights defenders.

49. The Special Representative must vigorously insist that any organization has the right to defend human rights; that it is the vocation of human rights defenders to examine government action critically; and that criticism of government action, and the freedom to express these criticisms, is an essential component of a democracy and must be legitimized in law and practice. States may not adopt laws or practices that would make activities for the defence of human rights unlawful. Article 22, paragraph 2, of the International Covenant on Civil and Political Rights stipulates that "no restrictions may be placed on the exercise of the right [to freedom of association] other than those which are prescribed by law and which are necessary in a democratic society in the interest of national security or public safety, public order, the protection of the public health or morals or the protection of the rights and freedoms of others". The Special Representative considers that this provision, read together with article 5 of the Declaration on human rights defenders, must be understood to include the protection of freedom of association for human rights organizations whose work may offend the Government, including organizations that criticize policies, publicize human rights violations perpetrated by authorities, or question the existing legal and constitutional framework.

50. The Special Representative uses the terms "NGO law" or "association law" broadly to refer to laws, decisions, decrees and other measures of a legally binding character that purport to regulate the creation, operation and dissolution of groups

that express, promote, pursue and defend common interests. Typically, these measures are contained in domestic legislative instruments bearing such titles as "Law on Associations", "Law on Public Societies", "Law on Public Associations", "NGO Law", etc. In this report, the Special Representative focuses in particular on the laws and the situation of NGOs and associations; less emphasis is put on regulations concerning trade unions and professional associations.

A. Difficulties in the creation and registration of human rights associations

Criminalization of non-registered groups

51. In the most liberal regulations, present in many European Union countries, often referred to as a regime of "declaration" or "notification", NGOs are automatically granted legal personality upon receipt by the authorities of notification by the founders that an organization was created. Typically, such notification includes basic facts such as the name, aims and address of the organization and the details of its founders. In contrast, a common feature of many laws that restrict freedom of associations is the criminalization of non-registered entities and the requirement to obtain authorizations or registration before carrying out human rights activities. In recent years, many countries have introduced registration requirements where none formerly existed and have used the new legislation to outlaw organizations that had existed for many years. Under laws in certain countries, failure to register an organization carries a penalty of up to a year at corrective labour. State authorities have used registration procedures to filter and reject organizations critical of the Government, with human rights organizations suffering in particular from this practice.

Burdensome and lengthy registration procedures

52. Defenders have reported a general lack of clarity concerning the steps to be taken for registration and a lack of access to adequate information at the local level to complete the process. Consequently, defenders have submitted "incomplete" files, generating delays in their processing. In one case, the leader of an organization reported having to go back to the Ministry of Justice every week for months in order for his organization to be registered. Defenders have also reported receiving contradictory and ever-changing instructions from different State organs on how to register. Some organizations that considered themselves registered were later informed that they had not fulfilled the necessary requirements. Defenders have also had their applications rejected on the basis of incomplete applications, with such trivial justifications as "no street address provided" and other minor administrative issues.

53. While association laws generally require basic information about an organization — such as copies of the organization's statutes and the founders' names and contacts — in a number of States, authorities have interpreted "basic information" in an overly broad sense and used this requirement as an opportunity to gather information for intelligence purposes or as a means to perpetually delay the registration of NGOs. For instance, in one country the founders of NGOs are required to provide copies of their passports and employment history records.

54. Other burdensome requirements have included a large number of founders: while many laws require a newly created group to have a minimum of two to five founders, others require 10 or more. Such requirements, coupled with repressive environments, have proven to deter individuals from forming human rights organizations.

55. While in many countries applying for registration is virtually free, in others, registration fees become a real barrier to the creation of organizations. In one instance, registration fees amount to $500, a sum corresponding to several months' salary in this particular country. For locally funded human rights defenders exorbitant fees make registration of their organizations almost impossible.

Limits on the creation of networks and independence

56. Information received by the Special Representative shows that in many places existing legal entities, including human rights organizations, are limited and sometimes prohibited from forming groups and establishing networks, coalitions or federations. For example, the law of one country authorizes only one federation on a given issue to operate within a region; the same law provides for the creation of a single federation at the national level comprising all specialized and regional federations, under the control of the Government.

Ill-defined grounds for denial of registration and failure to communicate the reasons

57. Criteria for registration included in national laws, where they exist, are frequently ambiguous enough to allow authorities broad discretion in their interpretation, resulting in arbitrary denial of registration for human rights organizations. In one country, registration can be denied based on an assessment that an NGO's activities do not strive towards the "public interest", without defining what that means. In other countries, authorities are granted wide powers to decide whether a new NGO is needed in a given field and can require organizations to change their objectives. In yet another country, registration can be denied if the applying organization is deemed to be "undesirable" by the registration authorities, once again not providing a definition of this notion. Cases submitted to the Special Representative cite a significant number of defenders being denied registration on the grounds that the nature of their proposed activities was either illegal or undesirable.

58. Increasingly, State authorities fail to respond to registration applications from human rights defenders. In some cases, human rights organizations have waited for a response for months, or even years, despite having filed for registration several times. In other cases, authorities have refused to issue the receipt for the publication of the public notice required for an NGO to come into existence. In one instance, defenders were physically prevented by the police from entering the public government office where applications are filed. Increasingly, when a negative response to a registration request is received, defenders are not told of the grounds for the refusal.

Appeal process

59. In the absence of a response or of a motivated decision, it has been difficult for human rights defenders to lodge appeals against the rejection of their registration

application. Even where responses are received, defenders have faced difficulties in exercising their right to appeal because of the complexity of the process, the time-consuming procedures and the lack of independence from the Government of the reviewing bodies.

Registration authorities

60. It is crucial for the reviewing body to be independent from the Government to ensure the fairness of the registration process. Information received by the Special Representative indicates that registration is becoming increasingly politicized by Governments, to the detriment of human rights defenders. In a large number of cases, registration applications are reviewed by government ministries, and even security units with strong ties to Government. Numerous new laws establish registration boards whose members are appointed at the discretion of the Government. In one State, the Minister of Public Service, Labour and Social Welfare has the power to select the registration board's chairman, who hears and determines appeals against the board's decisions and appoints officers to inspect NGO affairs.

Re-registration

61. Many States, after passing new laws, have required existing human rights organizations to re-register under the new regime and have used this requirement to control NGOs critical of government policies. The Special Representative has been informed that this has resulted in many already registered organizations having their legal status revoked. Defenders are also frequently obliged to re-register their organization following minor changes to their statute, management, or membership, which results in unreasonably time-consuming procedures and diverts human and financial resources away from human rights work. While changes fundamental to the existence of the NGO may call for re-registration, the Special Representative considers that minor changes such as changes in address, membership, management, rules of procedure, etc. that do not alter the nature of an organization could more reasonably be regulated through mere notification.

B. Restrictions on the registration of international NGOs

62. While only a minority of countries deny foreign human right defenders the right to associate freely, in many, they are subjected to a separate and more restrictive regime. In particular, some States require that at least 50 per cent of founding members be nationals. Others require that international NGOs obtain prior authorization before being allowed to operate in a country. Authorization is often dependent on a favourable opinion from the Foreign Ministry. In other cases, international NGOs based in a country are subject to additional application requirements, for example a larger minimum number of members, or the obligation to have a branch abroad in order to be eligible for registration in the category of "international association". International human rights groups have reported that these discriminatory regimes have delayed and sometimes prevented their registration and operation in a number of countries.

C. State scrutiny of the management and activities of NGOs

State scrutiny of the management of organizations

63. Where State authorities are given the right to monitor and interfere in the management of NGOs, defenders have seen their independence and work threatened. In one State, the law grants the authorities the right to monitor the election of an organization's board members, to object to certain candidates and to request that an internal decision be withdrawn when it is deemed to be in conflict with national regulations. In another country, the law effectively allows authorities to determine the wages of human rights NGO workers, to suspend the management board of an organization and to replace its members; in 1995, under this law State authorities suspended all the executive members of a women's rights NGO on unsubstantiated grounds of misadministration and misappropriation of funds and replaced the trustees with persons with links to the Government.

State scrutiny of the objectives of organizations

64. A key problem for defenders with the application of NGO laws is the use of vague, imprecise, and at times overly broad definitions of legitimate grounds for restricting freedom of association, which allows for varying interpretations based far more on government policy than on strictly legal considerations.

65. In many States, "reasonable" restrictions have been used to limit the freedom of association of defenders, to deny registration to human rights organizations or to justify their closure. In several countries, the law enables authorities to ban organizations that show signs of "extremism" in their activities, plans or statements. In others, activities that "threaten national unity", "violate public or moral codes", or are "political" are prohibited. In yet another State, associations can be disbanded for activities "endangering the integrity and security of the State, engaging in propaganda for war, or racial, national and religious hatred, or if they threaten the physical and psychological well-being of citizens". Interpretations of whether an organization falls into one of these vague categories is left to the authorities, which have increasingly included any organizations critical of the Government, paving the way for the criminalization of human rights activities.

66. In particular, NGOs that publicize human rights abuses by authorities have been accused of undermining the "integrity of the State" or "tarnishing the image of the State". In one case, an NGO working on minority rights was accused of threatening the integrity of the State for having used a minority language on a poster. In another case, an NGO working on gay and lesbian rights was denied registration because its aims were deemed unethical and "immoral". The Special Representative is particularly concerned about the practice by a number of States of systematically categorizing organizations working for minority rights or advocating for democratic rights and constitutional or legislative reform as unlawful and, in certain cases, even as terrorist organizations. She notes with concern that a number of States perceive civil society in general and human rights organizations in particular as groups whose only objective should be to help the Government achieve its goals.

State scrutiny of NGO activities

67. In many countries, NGO laws impose restrictions on the types of activities in which human rights organizations can engage. In particular, certain laws establish a restrictive list of authorized activities while others prohibit NGOs from engaging in any "political" or "trade union" activities, without defining either term. Such language puts human rights NGOs working to provide legal aid, advocating for the reform of the judicial system, working on election monitoring or defending the rights of political prisoners at risk of having their activities labelled illegal. In one case, the law tasks the registration body with "providing policy guidelines to NGOs for harmonizing their activities in light of the national development plan". In a later article, the same law grants this body the right to "investigate and inquire into any matter" to ensure that NGOs adhere to their own statute. States have used these provisions against human rights organizations to circumscribe their activities to fit within the policies of the State and adopted laws that see human rights organizations as mere implementing partners of government policies.

68. The operations of human rights NGOs have also greatly suffered from burdensome legal requirements to constantly inform authorities about their activities. Requirements that associations submit to the Government annual reports, copies of management decisions and prior notification of any events they organize have been used to interfere in the running of the human rights programmes.

69. The Special Representative has received an increasing number of allegations of interference by State agents, most frequently the security and police forces, in NGO activities. Human rights organizations have been prevented from holding seminars, conferences and workshops related to human rights issues. In some instances, interferences in human rights activities have included attempts to prevent NGOs from releasing reports on human rights abuses by seizing books and publications. In 2003, a collective of mothers was prevented from holding a conference on the death penalty on the grounds that their association was not registered. In 2003, the martial law authorities of one country broke into a training workshop and attempted to take the names of all the participants. In another instance, the police arrived at a workshop on voting and election rights, asked all participants to leave and forced the foreign election training team onto a plane.

70. Human rights organizations have also faced invasive policing. The Special Representative sent communications concerning 22 cases of raids by law enforcement agencies against human rights organizations. Illegal raids have provided opportunities for authorities to seize documents, files and databases relating to human rights abuses, members of the organization, witness testimony and cases being investigated. Law enforcement forces have also confiscated equipment, including computers and cameras. Such police operations are often conducted without warrants and, in some countries, occur repeatedly. They constitute serious interference in the work of human rights organizations. The seizing of confidential data, in particular testimonies of victims or witnesses and lists of names, represents a serious threat to the operation and credibility of human rights NGOs and can result in the named persons being targeted. In one instance, during a police raid evidence was planted to incriminate human rights defenders. In another case, police forces besieged an NGO to prevent it from holding a solidarity meeting with an imprisoned defender. Additionally, human rights defenders have faced surveillance and tapping

of their office telephones by State authorities, in particular security forces and the police.

D. Administrative and judicial harassment: grounds and procedures for dissolution

71. Another crucial area for human rights defenders concerning the application of NGO laws is the misuse of provisions regarding the suspension and dissolution of organizations. In a number of countries, the law grants the Ministry of Security, or its equivalent, the right to issue warnings to organizations. In one country, after two warnings have been sent, the Ministry can take an organization to court and in some cases even order its closure. Authorities in particular ministries have abused their power to issue warnings as a means of intimidating and threatening human rights NGOs. A significant number of NGOs have been sued or shut down under this procedure. In one particular country, the Ministry of Justice has systematically brought court cases against human rights groups for minor administrative irregularities such as having a different address from that officially registered, failure to use proper letterheads, using a symbol different from the one registered, changes in their board, etc. The Special Representative has taken up at least 15 cases of human rights NGOs facing legal proceedings for such irregularities and for holding meetings and publishing human rights reports. In one case, an NGO was charged with publishing seditious news because it reported that 50 miners had been buried alive by the police.

72. In some cases, governmental bodies such as ministries and territorial administrations have the authority to suspend the activities of NGOs without prior judicial review. In one case, the law provides the territorial administration with the power to suspend for a period of up to three months the activities of any association on the grounds of "disturbance to public order", and the minister with the authority to dissolve any association which departs from its original objective or whose activities seriously undermine public order or the security of the State. While their decision may be challenged before an administrative court, the provisions give State authorities discretionary power to end the operations of NGOs. In one case, security forces forcibly shut down a women's rights network, without legal justification.

73. A number of laws allow registration authorities to de-register NGOs if an organization is deemed to have altered its objective or to be pursuing objectives other than those declared. In one case, an organization defending the advancement and rights of women was de-registered because "the particulars in the application for registration of the society were false". The organization had produced a document that outlined the prominent women's issues and questioned whether these concerns were reflected in the platforms of general election candidates.

74. The Special Representative notes that such legal proceedings, even when they do not result in the actual closure of human rights organizations, put serious strain on human rights defenders' time and the organization's financial and human resources. In one country, two main human rights NGOs have had to face several hundred trials in connection with their publications on the grounds that they threatened the territorial integrity. Some proceedings have resulted in NGOs having to pay heavy fines, others in acquittals.

E. Restrictions on funding

75. A common feature of many newly adopted NGO laws of concern to human rights defenders is restrictive provisions regarding funding. An increasing number of domestic laws place restrictions on the origin of the funds that NGO receive and require prior authorization for NGOs to access international funds from nationals abroad or from foreign donors.

76. The bank accounts of human rights NGOs have been blocked and their assets frozen to prevent them from accessing international funding. In one case, the Ministry of the Interior prohibited a human rights organization from accessing the second half of a European Commission grant intended to fund its activities. As a result, the NGO has not been able to pay its office rent and is threatened with eviction. In another case, a human rights NGO had received a $40,000 grant from an international donor to run a one-year human rights monitoring project and produce an annual report, but it was unable to start its activities because it lacked the authorization to receive the grant despite having applied to the Ministry of Social Affairs well in advance, as required under the law. Restrictions have also been placed on how human rights defenders can utilize international funding. A presidential decree in one country prevents NGOs from using international aid to organize "meetings, demonstrations or picket lines", or to "draft and circulate propaganda documents or to engage in other types of political activities".

77. Given the limited resources available for human rights organizations at the local level, legal requirements of prior authorization for international funding have seriously affected the ability of human rights defenders to carry out their activities. In some cases, they have seriously endangered the very existence of human rights organizations. The ability of human rights defenders to carry out their activities rests on their ability to receive funds and utilize them without undue restriction, in conformity with article 13 of the Declaration.

78. Whereas in many countries associations and not-for-profit organizations are tax exempt, a few States have resorted to tax pressure to discourage human rights defenders from receiving funds from abroad. In one State, the tax law was amended in 2002 to include a provision which sets a 25 per cent tax on all resources that human rights NGOs receive. The provision is clearly discriminatory against human rights organizations as it does not apply to charities dealing with art or scientific research. Human rights organizations have been unable to conform to this new provision and are at risk of being prosecuted for breach of the law.

F. Restrictions on and retaliation for cooperation with international human rights partners and NGOs

79. Human rights defenders have been targeted for cooperating with international human rights NGOs. In one State, the authorities have the power to prohibit a national NGO from associating itself with an international organization, but are not required to provide grounds for their decision. The same law allows registration authorities to refuse to allow national organizations to become members of groups outside the country, without specifying the basis for such a restriction.

G. Good practices and recommendations in conformity with the Declaration

80. **While many laws regulating NGOs have proved to be problematic for human rights defenders, others provide examples of good practices. In this part of the report, the Special Representative builds on existing good practices to make recommendations on legislative provisions that are in conformity with existing international human rights standards, including the Declaration on human rights defenders.**

81. **NGO laws should be written and implemented to allow for the quick, easy and inexpensive creation of organizations and the acquisition of legal personality. Individuals and legal entities, national or foreign, and even organs of the State should be allowed to establish and independently operate associations for the defence of human rights, in accordance with clearly stated rights, privileges and immunities.**

82. **The Special Representative makes the following recommendations:**

With regard to registration:

(a) **The right to register and the duty to register. NGOs have a right to register as legal entities and to be entitled to the relevant benefits. Nevertheless, the Special Representative also believes that registration should not be compulsory. NGOs should be allowed to exist and carry out collective activities without having to register if they so wish;**

(b) **Favouring regimes of declaration instead of registration. Whereas the Special Representative recognizes that States can regulate freedom of association, she encourages them to adopt regimes of "declaration" or "notification" whereby an organization is considered a legal entity as soon as it has notified its existence to the relevant administration by providing basic information, including the names and addresses of the founder(s) and the name, address, statutes and purpose of the organization;**

(c) **Expeditious process. Where a registration system is in place, the Special Representative emphasizes that it should allow for quick registration. The law must set short maximum time limits for State authorities to respond to registration applications; failure to provide a response should result in the NGO being considered as legally operative;**

(d) **Explained decision. Decisions to deny registration must be fully explained and cannot be politically motivated. Failure to provide detailed grounds for the decision should result in the NGO being considered to be operating legally;**

(e) **Clear and publicly accessible criteria and procedures for registration. NGO laws must provide for clear and accessible information on the registration procedure. Official documents describing in detail the necessary steps and documentation for registration, including sample applications, must be accessible to NGOs and disseminated to all State organs. Training must be conducted or instruction given to ensure homogenous implementation of the law and to prevent arbitrary interpretations of registration criteria;**

(f) Documents required. NGO laws should preclude overly burdensome requests for unnecessary documents. Documentation required for registration should serve the sole objective of registration and must not be used for intelligence or other purposes;

(g) Presumption of legality. NGOs should be presumed to be operating legally until it is proven otherwise, in particular, during the entire registration process;

(h) Independence of registering bodies. Registering bodies should be independent from the Government and include representatives of civil society. In particular, members of such bodies should not be directly appointed by Government, nor at its discretion;

(i) Re-registration. In the event of the adoption of a new law all previously registered NGOs should be considered as continuing to operate legally and provided with accelerated procedures to update their registration;

(j) Appeals process. All NGOs whose applications have been denied by the registering body should have an opportunity to challenge this decision in an independent court;

(k) Foreign NGOs. Foreign NGOs carrying out activities for the promotion of human rights must be allowed to register and function without discrimination, subject only to those requirements strictly necessary to establish bona fide objectives;

(l) Funding. Governments must allow access by NGOs to foreign funding as a part of international cooperation, to which civil society is entitled to the same extent as Governments. The only legitimate requirements of such NGOs should be those in the interest of transparency;

With regard to the objectives and activities of human rights NGOs:

(m) Governmental authorities should refrain from exerting a priori scrutiny into the objectives of NGOs. The legality of an organization's purposes and its conformity with the law should be reviewed only when a complaint has been lodged against the organization. Only an independent judicial body should be given the authority to review an organization's purposes and determine whether they are in breach of existing laws;

(n) No restrictions should be imposed on the types of activities that human rights defenders carry out in the defence of human rights, provided they respect the principle of transparency and non-violence. Legitimate aims must include the right to engage in the defence of human rights standards, including but not restricted to furthering democratic rights, advocating for constitutional reforms, publicizing opinions and facts critical of government policies and actions and advocating for State accountability;

(o) Any restriction on the ground of "public order/morals/ethics" and any criteria meant to limit the right to freely associate must be clearly defined. Any human rights-related activities must be clearly excluded from these restrictions;

(p) States should be legally barred from interfering with the management structure and activities of NGOs. In particular, the Special

Representative encourages States to repeal legal provisions allowing for any control by the State of activities carried out in defence of human rights. Where concern arises with the activities of an organization, such concern must be brought before a fair, impartial and independent judicial authority through proceedings that are transparent, conducted in accordance with the principles of due process and open to public and international scrutiny;

(q) States should commit themselves to training their authorities, in particular the police and security forces, on how to implement the law at the local level in order to ensure that the freedom of association of human rights defenders is understood, respected and protected;

With regard to the suspension and closure of NGOs:

(r) Suspension. Government authorities should not be granted the power to arbitrarily suspend the activities of human rights groups. The courts alone should be entitled to order a suspension, and only in situations of clear and imminent danger that could result directly from such activities, and that is objectively ascertained;

(s) Dissolution. Actions by the Government against NGOs must be proportionate and subject to appeal and judicial review. Administrative irregularities or non-essential changes in the specifics of an organization should never be considered as sufficient grounds for closing down an organization;

With regard to funding:

(t) Access to funds, including from foreign sources, for the purpose of defending human rights should be ensured and facilitated by the law.

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Strengthening of the rule of law

Report of the Secretary-General*

Summary

The Office of the United Nations High Commissioner for Human Rights (OHCHR) has made the promotion of the rule of law a priority in its technical cooperation programmes, recognizing the link between the rule of law and respect for human rights. The technical cooperation programme offers assistance in a wide range of areas, including support for reporting under human rights treaties; development and implementation of national plans of action; establishment and strengthening of national institutions; assistance with constitutional and legislative reform, administration of justice, elections and national parliaments; and training for police, armed forces, prison personnel and legal professionals.

OHCHR also continues to emphasize the importance of respecting the international legal framework for states of emergency and is strengthening its capacity to offer technical assistance in this area.

OHCHR has provided advice to United Nations peace operations on human rights and rule of law issues, and made concrete proposals on the scope, structure and function of human rights components to ensure that the promotion and protection of human rights law was integrated into respective mandates.

* The present report was submitted late in order to include additional information received after the deadline for submission.

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With regard to future activities, the Office of the High Commissioner intends to exchange views and experiences with judges, prosecutors and lawyers on their role in the protection of human rights and rule of law at the national, regional and international level. Furthermore, the Office is currently implementing a project aimed at developing tools to help ensure the centrality of human rights in the rule of law policy in post-conflict countries.

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I. Introduction

1. In its resolution 57/221, the General Assembly requested the Secretary-General to submit to the General Assembly at its fifty-ninth session a report on the implementation of its resolution on the strengthening of the rule of law, which requested, inter alia, that the United Nations High Commissioner for Human Rights continue to accord high priority to technical cooperation activities and institution building activities in the area of the rule of law. In the same resolution, the General Assembly also requested the Secretary-General to report on the implementation of the recommendation of the World Conference on Human Rights, held at Vienna from 14 to 25 June 1993, that a comprehensive programme should be established within the United Nations with a view to helping States in the task of building and strengthening adequate national structures that have a direct impact on the overall observance of human rights and the maintenance of the rule of law.

2. Through the Millennium Declaration (A/RES/55/2), the heads of State and Government resolved to strengthen respect for the rule of law in international as well as in national affairs. Encouraging States, non-State actors, and civil society at large to uphold the rule of law is at the core of OHCHR mission. In its resolution 57/221 of 27 February 2003, the General Assembly indicated that it was firmly convinced that the rule of law is an essential factor in the protection of human rights, as stressed in the Universal Declaration of Human Rights, and that States, through their own national legal and judicial systems, must provide appropriate civil, criminal and administrative remedies for violations of human rights. The Office of the High Commissioner has made the promotion of the rule of law a priority in its technical cooperation programmes, recognizing the link between the rule of law and respect for human rights.

3. In its resolution 2004/43, the Commission on Human Rights encouraged the High Commissioner to reinforce advisor services and technical assistance relating to national capacity-building in the field of the administration of justice, in particular juvenile justice, and, as a matter of priority, to develop an action programme to facilitate the exchange of experiences among judges as regards their role in the protection and promotion of human rights, inter alia, through the compilation of key decisions of international human rights jurisprudence and the organization of periodic consultations among judges at the international, regional and subregional levels. At a broader level, the continued commitment of the Commission to the protection of human rights and to tackling impunity for human rights abuses wherever they arise, not only reinforces respect for the rule of law at the national level, but also consolidates the concept at the international level. Presently, the Office's main funding sources for activities related to the rule of law are from the regular budget (in respect of the special procedures) and voluntary funds (Voluntary Fund for Technical Cooperation in the Field of Human Rights).

4. The rule of law provides a particularly appropriate conceptual and operational framework for the human rights programme of the United Nations, in that it equally accommodates the requirements for implementation of all civil, cultural, economic, political and social rights, as well as the right to development. It concerns itself with the substantive and the procedural, the national level and the international, and with the quality, content and objectives of laws, processes, institutions, practices and values.

5. The rule of law presumes that a law is in place and encompasses its content, particularly its consistency with international human rights standards, its certainty of application, its supremacy in the hierarchy of power, the institutions and procedures for its implementation and enforcement, and the fairness with which it is applied in any given case.

6. A system of government established under the rule of law ensures the availability of mechanisms for conflict resolution, whether judicial or non-judicial, and adequate remedies to address possible violations and transgressions. The system must also assure that such mechanisms and remedies are accessible to all, function in respect of international standards and backed by the State's commitment to accountable government.

7. At the institutional core of systems based on the rule of law is a strong independent judiciary, adequately empowered, financed, equipped, and trained to uphold human rights in the administration of justice. Also essential is an effective, justice sector including adequate facilities and national training regimes for lawyers, judges, prosecutors, police and prison officials.

8. Ending impunity is a fundamental aspect of furthering the rule of law. National, regional and international judiciaries have a specific role to play in addressing crimes of concern to the international community as a whole, such as genocide, war crimes and crimes against humanity. Where societies are undergoing the painful process of transition from conflict or widespread human rights abuses, accountability itself must be institutionalized, through appropriate tribunals, truth commissions, consultation processes, and other such mechanisms as determined by the people themselves.

9. The good functioning of the rule of law necessitates a strong legal framework, under the Constitution, which upholds human rights and democracy, and which provides for effective protection, implementation and redress in key areas at domestic level that relate to all human rights, be they civil, cultural, economic, political or social rights.

10. Transparency of institutions, policies, practices, and programmes affecting all aspects of life is essential for any properly functioning society. Transparency helps to foster stability and predictability of government. Transparency is essential for the realization of rights, whether they relate to the exercise of emergency powers, the protection of civil and political rights or the allocation of available resources in the context of achieving progressively the full realization of economic, social and cultural rights.

11. Under the transparency principle, society at large is able to monitor a State's compliance with its obligations. This requires a strong civil society and effective non-governmental organizations committed to ensuring respect by the State of human rights standards and vigilant in its demands that the rule of law be rigorously observed.

II. Technical cooperation

12. The technical cooperation programme of the Office of the High Commissioner supports Governments, at their request, in promoting and protecting human rights at the national and regional levels by incorporating international human rights

standards into national laws, policies and practices and by building sustainable national capacities to implement those standards and ensure respect for human rights.

13. The number of States requesting assistance in fortifying and consolidating the rule of law can be considered an indicator of the importance member States attach to the rule of law. As of 30 April 2004, thirty-six ongoing technical cooperation projects were being administered by the Voluntary Fund for Technical Cooperation in the Field of Human Rights, at least twenty of which were providing support to activities related to strengthening the rule of law.

14. The technical cooperation programme offers assistance in a wide range of areas. This includes support for reporting under human rights treaties; development and implementation of national plans of action; establishment and strengthening of national human rights institutions; assistance with constitutional and legislative reforms, administration of justice, elections and national parliaments; and training for police, judges and other legal professionals, prison personnel and the armed forces. The involvement of non-governmental organizations and civil society, in both implementation and participation in training is a key component of this activity.

III. Human rights training materials

15. In the endeavour to strengthen the United Nations system-wide approach to promoting the rule of law and human rights, the Office of the High Commissioner has developed training materials intended for use by United Nations staff, intergovernmental and non-governmental organizations, and civil servants of countries receiving technical cooperation. Training materials include a recently completed training manual for judges, prosecutors and lawyers; a training package for the law enforcement officials; a handbook on international standards relating to pre-trial detention; and a manual on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment.

16. Other training materials include a training package on human rights monitoring; a handbook on legal, technical and human rights aspects of free and fair elections; and, a field guide on human rights for international civilian police monitors. Materials under preparation include training manuals for prison officials and military peacekeepers. An updated version of the field guide on human rights and international civilian police monitors is also under preparation.

IV. National human rights institutions

17. The Office of the High Commissioner, through its National Institutions Unit, supports the establishment and strengthening of national human rights institutions as a key mechanism in support for the rule of law. Such institutions can make a substantial contribution by transforming the goals of international instruments into reality at the national level.

18. National human rights institutions contribute to the development of pluralistic democracies respecting the rule of law by providing advice to Governments on legislation, policies and programmes; ensuring the application of international

human rights norms in national jurisprudence; empowering judicial enforcement mechanisms while respecting the independence of the judiciary; ensuring access to the courts including through the role of amicus curiae; establishing complaint mechanisms; undertaking investigations of alleged human rights violations either at the request of authorities or suo moto; providing early warning regarding critical issues; building bridges between Governments and civil society; promoting human rights and fundamental freedoms through education and information; and allowing for public inquiries that provide insight into systemic problems.

19. The Office of the High Commissioner provides advice on legislative, procedural and substantive issues of relevance to national human rights institutions. This work has increasingly been done in cooperation with partners from other United Nations agencies and civil society. In November 2003, the Office, in cooperation with the Danish Institute for Human Rights, hosted the International Round Table "National Human Rights Institutions and Administration of Justice" with the participation of twenty-two national human rights institutions from Africa, Asia and the Pacific, Europe and Latin America, in which the centrality, and importance, of implementing the Paris Principles and the potential quasi-jurisdictional powers of national institutions were highlighted. In July 2004, the Office, together with the Danish Institute for Human Rights, launched the case-handling database for national human rights institutions, available on the national institutions web site www.nhri.net.

20. The Office continues to assess the role of national human rights institutions in countries in crisis or in transition. In the Occupied Palestinian Territories, the Office has focused particular attention on the Palestinian Independent Commission for Citizens Rights and advising and enabling legislation in hopes of eventually entrenching the institution in parliamentary legislation. Efforts are ongoing to establish and strengthen national institutions in countries such as Afghanistan, Angola, the Democratic Republic of the Congo, Iraq, Nepal, the Occupied Palestinian Territories, Rwanda, and Uzbekistan.

V. Office of the United Nations High Commissioner rule of law-related support to peace operations

21. OHCHR has increasingly been involved in providing advice on key human rights and rule of law issues in connection with peace negotiations and other United Nations efforts aiming at restoring peace. OHCHR has been closely cooperating with the Department of Political Affairs, the Department of Peacekeeping Operations and other United Nations programmes and agencies, and has contributed to country-related and thematic discussions in Afghanistan, Burundi, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia, Haiti, Iraq, Liberia, Sierra Leone, Sudan and Timor-Leste on civilians in armed conflict and children and armed conflict, and held by the Security Council. OHCHR participated in various inter-agency meetings and task force groups such as the Inter-departmental Task Force (ITF) on Afghanistan, Burundi, Côte d'Ivoire, Haiti, Liberia and Sudan. In order to facilitate the establishment of peace operations, and to advice on the definition of comprehensive human rights and rule of law strategies, OHCHR has been closely working with United Nations teams on the ground and has deployed experienced Human Rights Advisors to various United Nations Missions such as to

Liberia, Burundi, Iraq, Côte d'Ivoire, Sudan and Haiti to assist the efforts of the Special Representatives of the Secretary-General and United Nations Resident Representatives.

22. OHCHR made concrete proposals on the scope, structure and functions of human rights components of peace operations to ensure that the respective mission mandates included components of the protection and promotion of human rights.

23. In some post-conflict countries, OHCHR is supporting the work of peace operations and working in close coordination with other United Nations partners, including the United Nations Development Programme, to support human rights and rule of law programmes and other initiatives through capacity-building and human rights training programmes for law enforcement officials and other key groups. Important lessons can be drawn from the work of the human rights components of several peace operations actively involved in human rights and rule of law efforts, such as, for example in Sierra Leone, Afghanistan, Timor-Leste, Democratic Republic of the Congo, Guatemala, Georgia, Burundi and Eritrea.

VI. Rule of law in states of emergency

24. Acts of terrorism seriously undermine international and national rule of law. As has been recognized by the Commission on Human Rights, acts, methods and practices of terrorism aim at the destruction of human rights, fundamental freedoms and democracy. They destabilize governments and undermine civil society. Governments therefore have not only the right, but also the duty to protect their citizens from terrorist acts. The manner in which counter-terrorism efforts are conducted, however, can have a far-reaching effect on the rule of law. There is increasing evidence that some governments are using the international mobilization against terrorism as an opportunity to strike down or restrict political opposition. Serious human rights violations, such as torture, arbitrary detention, racial discrimination, anti-Semitism, Islamophobia, and restrictions on the rights of association and assembly are frequently reported.

25. OHCHR has continued to emphasize the importance of respecting the international legal framework for states of emergency, both in connection with counter-terrorism action as well as other situations which may implicate national security. Human rights law strikes a balance between legitimate national security concerns and the protection of fundamental freedoms. It concedes that derogation from a number of rights may be permissible in times of national emergency, but article 4 of the International Covenant on Civil and Political Rights subjects such derogations to strict substantive and procedural safeguards regarding the declaration and implementation of a state of emergency.

26. In September 2003, OHCHR published the *Digest of Jurisprudence of the United Nations and Regional Organizations on the Protection of Human Rights while Countering Terrorism*. It has distributed the publication widely, including to all national affiliates of the International Bar Association and to members of the International Commission of Jurists. The *Digest* includes the full text of the Human Rights Committee's General Comment No. 29 of 2001 on states of emergency. The goal is to provide legal professionals, policy makers and others with a vision of a counter-terrorism strategy that fully respects human rights and the rule of law. OHCHR is developing its capacity to offer technical assistance to States in the area

of counter-terrorism and emergency measures, in consultation with partners including the United Nations Office on Drugs and Crime. OHCHR has also maintained its dialogue with the Counter-Terrorism Committee (CTC) of the Security Council and has regularly provided the CTC chair with updates on relevant findings of the United Nations human rights treaty bodies and other mechanisms.

27. The Human Rights Committee, charged with monitoring implementation of the International Covenant on Civil and Political Rights (ICCPR), has continued to pay particular attention to counter-terrorism and other emergency measures that may have a negative impact on the rights contained in the Covenant. The issue has also been addressed by the Committee against Torture and the Committee on the Elimination of Racial Discrimination, as well as by a number of the special procedures established by the Commission on Human Rights.

VII. Examples of technical cooperation activities in the area of the rule of law

Afghanistan

28. In Afghanistan, OHCHR supports the United Nations Assistance Mission in Afghanistan (UNAMA), particularly by providing advice on the process of transitional justice. Human rights focal points in the regions continue to monitor justice related issues, such as arbitrary detention and harassment of civilians by the military and police. OHCHR has provided a technical adviser to the Afghan Independent Human Rights Commission to strengthen its infrastructure and develop priority areas such as monitoring the judicial process. The Government of Italy, with the support of UNAMA and UNDP, continues as the focal point for criminal justice reform activities, providing technical assistance to the interim administration and its entities, such as the Judicial Reform Commission. In addition, OHCHR provided training on reporting under human rights treaties ratified by Afghanistan.

Angola

29. The OHCHR continued its work on a computerized case-tracking project, which will improve control of legal preventive detention periods (pre-trial) through the use of database monitoring technology. Development Workshop, a Canadian NGO, coordinated the project's technical implementation, in cooperation with the Angolan Prosecutor General's Office.

30. OHCHR assisted the Angolan Bar Association with the implementation of a project aimed at the release of detainees after the expiry of legal preventive detention periods, and the improvement of general detention conditions in two provinces.

31. Building on efforts undertaken by the United Nations Organization in Angola (UNOA) and the United Nations Observer Mission in Angola (UNMA), the Office of the High Commissioner resumed a programme of civic and human rights education with the Angolan National Police, covering one province directly and two provinces through partner NGOs. A proposal for the continuation of a similar training programme with the Angolan Army, covering most of the country, was completed.

Azerbaijan

32. OHCHR has continued to focus on promoting the rule of law, democracy and respect for human rights through technical cooperation with the Government of Azerbaijan. A primary objective is a project providing training in international human rights standards in the field of law enforcement and administration of justice; reinforcing national compliance with the United Nations treaty reporting obligations; and developing comprehensive training manuals, including a police training manual, in compliance with international human rights standards. The first phase of the project was implemented between January 2002 and May 2003, with a focus on capacity building of the police, training of the police and publishing the training manual and accompanying materials in Azeri language for future consultation. OHCHR and the Government agreed on the implementation of phase 2 through 2005 aiming at strengthening the protection of human rights in the administration of justice sector by providing training to judges, prosecutors, lawyers and penitentiary staff; including translation of relevant OHCHR manuals into the Azeri language; and enhancing national capacity in United Nations treaty body reporting processes by providing training to relevant government officials, staff of the Ombudsman's Office and civil society organizations.

Bosnia and Herzegovina

33. OHCHR trained Federation and Republika Srpska defence attorneys on the new criminal procedure code, and participated in the working groups on the draft law on minor offences, on national prosecution of war crimes and on juvenile justice. OHCHR also provided technical assistance to the Office of the High Representative's rule of law unit on their draft criminal law programme and the issue of witness protection. The Office of the High Commissioner ensured that civil society was informed of the content of the laws (e.g. draft law on witness protection) and was able to give comments relating to protection of witnesses to war crimes and victims of gender-based violence. OHCHR also provided comments on the draft law on missing persons, and did an assessment of the domestic legal framework relating to the families of missing persons and the enjoyment of their human rights.

34. OHCHR has become increasingly involved in supporting torture victims and families of missing persons in accessing their social and economic rights, both through taking up individual cases, and supporting associations to raise their concerns. In the same vein, OHCHR provided technical assistance to the Government to ensure the integration of human rights into the implementation of the National Plan of Action to combat trafficking; trained judges, prosecutors and police, and undertook awareness-raising activities at national and regional levels through media, press conferences and publications. In the area of protection and assistance for victims of trafficking, OHCHR hosted a round table of all relevant government bodies and NGOs to identify areas that required regulation under the new Law on Movement and Stay of Aliens and Asylum. The Office then provided technical assistance to the Government in drafting the necessary regulations.

Bahrain

35. In April 2004, OHCHR participated in a workshop organized by the Bahrain Society for Human Rights and the Ministries of Foreign Affairs and Interior, which

related to the training of police officers in human rights in the administration of criminal justice.

Burundi

36. In Burundi, OHCHR continued to monitor the legality of detention in both prisons and police stations. Technical expertise was also provided to law enforcement officials on the adequacy of criminal investigations. The Office of the High Commissioner contributed to the training of 32 judges and prosecutors from 17 "tribunaux de grande instance" and prosecution offices in the field of administration of justice, techniques in criminal law and judicial process, in Bujumbura, from 26 April to 7 May 2004. It also provided technical assistance to the United Nations Team which carried out a needs assessment mission for the establishment of an International Commission of Inquiry for Burundi, in May 2004.

Cambodia

37. In Cambodia, OHCHR's office cooperated with key state institutions, at the central and provincial levels, and with civil society, on strengthening the rule of law, on legislative reform and on building capacity in the judicial sector. OHCHR continued to provide comments on key draft laws, facilitate discussion on legal policy issues, provide advice on legal issues with a particular focus on criminal justice process and procedure, as well as monitor trials of concern in the court system.

38. During 2003, the OHCHR also supported the relevant authorities to ensure that the National Assembly election was conducted in a free, informed and fair manner. The agreement between the United Nations and the Government of Cambodia concerning the prosecution under the Cambodian law of crimes committed during the period of Democratic Kampuchea was signed in Phnom Penh on 6 June 2003.

Central African Republic

39. In Central Africa, the human rights section of BONUCA carried out various training activities for the police, armed forces and judges throughout 2003 and 2004. OHCHR organized a training session for 27 participants to combat transboundary criminality and terrorism and continued to visit prison facilities in 2003 and 2004 to monitor respect for the standard rules on treatment of detainees. From December 2003 to January 2004, OHCHR monitored the trials conducted by the Permanent Military Tribunal. During the period from February to April 2004, OHCHR advised the Transitional Authority and the Government in the drafting of the new Constitution, the Criminal Code and Criminal Procedure Code.

Chad

40. At the request of the Minister of Justice of Chad and according to the resolution 2003/81 adopted by the Commission on Human Rights on 25 April 2003, OHCHR and UNDP/Chad carried out a needs assessment mission to Chad in February/March 2004. The mission focused on the situation of the judicial and prison sectors, and how they can respond to the culture of impunity. Taking into account the recommendations already made by the meeting entitled "Etats généraux de la justice", organized by the Government in June 2003, the mission recommended to the OHCHR to provide technical assistance and advisory services

to the Government in the framework of a project (being formulated and implemented in 2005), focusing on the support to the implementing body, and with a view to developing a national programme on judicial reform. OHCHR intends to deploy a Human Rights Advisor to support these efforts.

China

41. OHCHR's programme in China originated in the Memorandum of Understanding between OHCHR and the Government of China signed in November 2000. The MOU indicates as the main objective of the OHCHR technical cooperation programme in China support for the ratification and implementation of international human rights treaties. The MOU covers, inter alia, the following areas: the administration of justice, human rights education, and "legal development" covering both legal and legislative reform. Activities in 2003 included a workshop in March in Beijing on alternatives to incarceration as punishment for minor crimes; a mission on human rights and the police to Beijing and Zhengzhou also in March 2003; a three-week course for selected police trainers and policy makers, focusing on human rights and criminal investigations, in London at the Centrex International Police Training facility in November-December 2003; and a visit for 16 prison administrators, trainers, and legislators to Swiss penitentiary institutions followed participation in a round table on human rights and prison administration at OHCHR headquarters in September-October 2003. Finally, the compilations of the general comments of treaty bodies and of the General Guidelines on reporting to these bodies were distributed among academic institutions involved in human rights research in preparation for China's ratification of the International Covenant on Civil and Political Rights.

Colombia

42. OHCHR continued to provide advice regarding the promotion of respect for the rule of law, including the provision of legal opinions on the conformity of domestic legal provisions and draft legislation with international standards, particularly aimed at ensuring the independence of the judiciary, the exercise of fundamental freedoms and the rights of victims. OHCHR also participated in a number of working meetings of inter-institutional bodies and other related committees in order to advise the authorities on the relevant international standards. OHCHR has enhanced its advisory activities on constitutional and judicial reforms, the right to truth, justice and reparation, and policies related to the fight against terrorism. In addition, the Office of the High Commissioner continued to provide technical cooperation and training to contribute to the strengthening of the capacity of those national institutions responsible for promoting and protecting human rights to implement international human rights law and international humanitarian law. The Office of the Ombudsman, the Office of the Attorney-General, Procurator General, judges, members of Congress, municipal representatives, the Colombian Institute for Family Well Being, and civil society were the principal recipients of such training.

Croatia

43. In Croatia, an expert round table was organized to discuss, inter alia, a draft law on gender equality; implementation of the constitutional law on national minorities, focusing on the elections of local Minority Councils; implementation of

the constitutional law on national minorities, with a special focus on parliamentary elections, and the proposed law on the implementation of the International Criminal Court Statute providing for the processing of domestic war crime cases. A training seminar on individual complaint procedures of human rights treaty bodies was held for 25 lawyers and human rights activities in June 2003.

Democratic Republic of the Congo

44. OHCHR has undertaken training and advocacy activities, including the sensitization of military magistrates on "Military justice and protection of human rights". This campaign lasted from 30 September to 1 October 2003 and involved 125 military magistrates. OHCHR also funded the reprinting of the Military Criminal Code and the Military Justice Code, as well as international instruments relating to human rights which were distributed to army officers. OHCHR also provided support to the Permanent Commission for the Reform of the Congolese Law, with particular regard to drafting laws meant to harmonize national law with the Rome Statute.

El Salvador

45. The Office of the High Commissioner organized a number of activities relating to the rule of law in 2003, including a colloquium on the domestic law against juvenile gangs in September 2003 with the participation of the Ombudsman's Office for the Defense of Human Rights, the Ministry of Foreign Affairs, the Prison's National Direction and the Ministry of the Interior. As a follow-up, a related conference was organized in October 2003. OHCHR facilitated a one-day workshop in December 2003 for 25 police officers on their roles and responsibilities in respecting the Universal Declaration of Human Rights followed by a conference for 40 high-level officials of the national police.

46. Other activities organized in December 2003 included a forum on impunity, national justice and international mechanisms (co-sponsored by the NGO Commission on Human Rights of El Salvador). Participants discussed the 1993 Amnesty Law and its negative impact on judicial proceedings for relatives and victims. A training on human rights and gender was offered to 50 persons representing various institutions such as the Ombudsman's Office, the Ministry of Foreign Affairs, the national police, members of the legislature and representatives from the National Direction for Prisons, the Ministries of Health and Education, the National Institute for Children and Adolescents, and representatives of NGOs.

Guinea-Bissau

47. The technical cooperation project in Guinea-Bissau aims to provide, inter alia, training to magistrates, lawyers, parliamentarians, law enforcement officers and army officials on fundamental human rights. In two separate training sessions in June 2003, 173 and 650 soldiers who were to be deployed to Côte d'Ivoire and Liberia participated in human rights training sessions. The goal of the exercise was to provide the soldiers with a basic knowledge of human rights and international humanitarian principles to enable them to accomplish their peacekeeping responsibilities.

48. In July 2003, a human rights seminar for the army and police units was organized to provide information regarding human rights and how they can be

incorporated into the daily work of security and law enforcement officials. Other activities undertaken include the translation and production of radio sketches in Creole of the principles regulating the use of force and firearms by law enforcement agents, as well as different articles of the Convention on the Rights of the Child and the Convention on the Elimination of Discrimination against Women.

Iraq

49. On 4 June 2004, OHCHR submitted a report (advance unedited report) on the present situation of human rights in Iraq to the Commission on Human Rights (E/CN.4/2005/4).

50. OHCHR translated the new training publication entitled *Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers* into Arabic. This publication served as the basis for several trainings conducted by the International Bar Association for Iraqi judges, prosecutors and lawyers.

Morocco

51. In March 2004, OHCHR participated in a two-day regional workshop in Marrakesh organized by UNDP/Regional Bureau of Arab States and the Moroccan Ministry of Justice on the role of the prosecution in the administration of justice.

Palestine

52. Forty-five judges from the West Bank and Gaza participated in a training course on human rights and the administration of justice organized by OHCHR in Gaza. In cooperation with the Palestinian Rehabilitation and Reform Centres, OHCHR facilitated a five-day training course for 23 prison officials from the West Bank in May 2003 in Ramallah. Provided with funds by USAID, the OHCHR also organized, in cooperation with the Office of the Palestininan Attorney General and DPKO, a three-day training course for prosecutors from the West Bank in Ramallah. A similar four-day training course for prosecutors was organized in Gaza in September 2003 for prosecutors.

53. OHCHR organized various training courses dealing with the strengthening of the administration of justice and the role of law for National Authority staff, prosecutors, police officers, judges, Legislative Council staff, lawyers, and prison guards. At least 300 law enforcement officers and legal practitioners were trained in international human rights law, aiming at integrating the human rights concepts into domestic laws and policies.

54. At the end of 2002 and throughout 2003, OHCHR organized training courses on human rights and the administration of justice for Palestinian lawyers from the West Bank and the Gaza Strip, in cooperation with the Palestinian Bar Association, Palestinian prisons guards in the West Bank and the Gaza Strip, and Palestinian police staff in the Gaza Strip. In addition, OHCHR facilitated two training sessions for 66 Palestinian prosecutors from the West Bank and Gaza Strip in collaboration with the Office of the Attorney General and two courses for 70 Palestinian Judges from the West Bank and Gaza Strip in cooperation with the Palestinian Judiciary Council.

55. In December 2002, OHCHR supported the development of guidelines on arrest, detention and use of force and firearms, which have been widely distributed among the Palestinian police force as a complement to its training activities, by providing training modules elaborated by the Danish Police.

Peru

56. The Office of the High Commissioner supported the work of the Truth and Reconciliation Commission through a technical cooperation project until July 2003. OHCHR has offered technical cooperation to the Commission to ensure the fulfilment of the mandate, through the strengthening of its technical capacities on research, analysis and systematization of the information; design and revision of a database on violations of human rights; in addition to the design and preparation of proposals concerning, in particular, the effective application of justice and reparation to the victims.

57. A seminar was held in June 2003 to discuss human rights and reconciliation in the aftermath of violent conflict and the experiences of Truth and Reconciliation Commissions in other countries. The seminar was attended by some 800 persons and covered such issues as armed conflict and truth commissions, internal conflict and democracy, reparations policies, reconciliation and institutional reform, and the International Institute for Democracy and Electoral Assistance's (IDEA) manual on reconciliation.

Qatar

58. A one-day event entitled "OHCHR workshop on International Human Rights Protection through the Courts in Qatar" was organized in cooperation with the Government of Qatar on 23 May 2004 in Doha. Some 30 judges, prosecutors and lawyers attended the meeting to discuss topics such as international human rights law and its implementation mechanisms, the independence and impartiality of the judiciary, and the role of the judiciary in upholding human rights.

Saudi Arabia

59. In April 2004, OHCHR participated in a symposium in Riyadh, on the "Judiciary and Judicial Organizations in Saudi Arabia", organized by the Ministry of Justice. Discussions focused on the role of the judiciary, prosecutors and lawyers in the administration of justice, advocacy criminal procedures, and law reform.

Serbia and Montenegro

60. The major activities of OHCHR in Serbia and Montenegro (including Kosovo) have included its participation in consultations and commenting on the Charter on Human and Minority Rights and Fundamental Freedoms that was incorporated into the new Constitution of the Union of Serbia and Montenegro in February 2003.

61. OHCHR monitored new legislation and measures taken during the state of emergency in Serbia, which was in effect for six weeks following the assassination of the Serbian Prime Minister in March 2003, and provided government representatives with advice and information on international human rights standards to be respected in time of public emergency. The Mission led meetings with local NGOs and kept the human rights community informed on new developments.

OHCHR visited detainees held without judicial supervision according to special powers given to the police and prosecutors under emergency decrees and other legislation, which remained in effect after the end of the state of emergency; delegates of the Organization for Security and Cooperation in Europe (OSCE) and its Office for Democratic Institutions and Human Rights (ODIHR) were present at these visits. OHCHR made specific recommendations to the authorities relating to human rights violations during the state of emergency, including torture, conditions of detention which may have amounted to cruel, inhuman or degrading treatment and extensive periods of detention without judicial supervision, which continued after the ending of the state of emergency.

Sierra Leone

62. In Sierra Leone, OHCHR continued its support to the operations of the Truth and Reconciliation Commission. The United Nations Mission in Sierra Leone (UNAMSIL) Human Rights Section sponsored a two-day workshop to coordinate actors in the justice sector, and supported the implementation of a prison reform. UNAMSIL, with the assistance of OHCHR, sponsored the Lawyers Centre for Legal Assistance to pilot a programme on free legal services for the poor. UNAMSIL has also convened two conferences on the rule of law in Sierra Leone.

Solomon Islands

63. The objectives of technical cooperation in the Solomon Islands are to strengthen the institutional capacity of the police to respect and promote human rights; introduce human rights approaches into prison administration; wider access to justice; integrate international human rights standards into national legislation; provide support for the post-conflict peace-building process; and increase public awareness of human rights standards and norms, especially concerning women's rights, children's rights, and economic, social and cultural rights.

64. Activities undertaken in 2003 to achieve these goals included the finalization of a draft human rights pocket guide for police; assistance, in cooperation with UNDP, to the Government in its efforts to draft and adopt a new constitution; the provision of grants to an NGO to conduct a survey of community leaders on their views about initiating a truth and reconciliation process, which were overwhelmingly positive.

Sudan

65. In Sudan, OHCHR has identified key areas for intervention in human rights training programmes for the armed forces, human rights education, monitoring, police training and security-sector reform, and judicial and legislative reform. A series of human rights training programmes were conducted for government officials entrusted with submitting reports to international treaty bodies.

66. OHCHR held several seminars on the role of the Sudanese regular armed and police forces in the promotion and protection of human rights. The training programme tried to familiarize participants with basic international human rights standards in relation with their duties.

67. With regard to the harmonization of domestic law with international human rights law, a seminar was organized by the OHCHR for parliamentarians to

strengthen the capacity of the legislative body, which was seen as a crucial step forward to protect and to promote human rights and fundamental freedoms in Sudan.

68. In December 2003, a seminar was held on the Convention against Torture, which focused on the implications of ratification, issues related to the provisions of the Convention, the definition of torture, universal jurisdiction, reservations and their legal impact, the experience of other States with regard to their reporting obligations, and the development of international human rights law in reference to the Convention.

69. In cooperation with the Government of Sudan, a team of OHCHR staff undertook a mission to the Dharfur region and to the border region of Chad to report on the growing crisis in that region, A report was submitted to the Commission on Human Rights that determined that human rights violations had taken place in the Dharfur region (E/CN.4/2005/3), and which analysed the legal character of those violations. A team of eight human rights monitors was deployed to the Dharfur region in August 2004 to support the protection activities of humanitarian agencies, to develop monitoring capacities, to continue reporting on the human rights situation, and to investigate human rights violations committed by governmental and non-governmental forces with a view to preventing abuses from occurring in the future.

Tajikistan

70. OHCHR supported the development of national capacities of law enforcement agencies, seeking to accelerate their reform and increase professionalism. Project activities included the establishment of a Forensics Center at the Ministry of Interior under the Expert Criminology Department for conducting investigations with scientific methods including training of staff. The project was being expanded to several regional centres. The United Nations Tajikistan Office of Peace-building (UNTOP) worked with the educational units of the Ministry of Interior such as the Study Center and Police Academy, providing training on the United Nations Code of Conduct for Law Enforcement Officials and on human rights in policing. Following discussions hosted by UNTOP on the Law on Militia, the law was subsequently amended in 2004 to better reflect international norms. In 2003, UNTOP staff carried out a two-day human rights training, in cooperation with the NGO Legal Education Center, targeting lawyers and judges. In the course of the project some 240 practising judges and advocates received human rights training.

The former Yugoslav Republic of Macedonia

71. OHCHR provided support for the advisory board of the newly established NGO coalition, All for Fair Trials. The coalition was founded by representatives of 18 national NGOs with the aim to observe the implementation of fair trial standards and to collect impartial information on the functioning of the judicial system for the purpose of raising public confidence and proposing long-term reform in the criminal justice system. In addition, OHCHR's police pocket book on human rights for the police was published in two local languages.

72. With a view to improving the capacity of the human rights office in the Ministry of Foreign Affairs to mainstream international human rights standards throughout government departments, OHCHR worked with officials at the Ministry

of Foreign Affairs to begin preparing overdue reports for submission to human rights treaty bodies.

Timor-Leste

73. Under its two-year joint programme with the United Nations Mission of Support in East Timor (UNMISET), OHCHR worked with the Government to incorporate international human rights standards in national laws, to strengthen national institutions and the administration of justice, and to formulate national plans of action for the promotion and protection of human rights. The human rights unit of UNMISET has contributed to the development of draft legislation such as legislation on domestic violence, the creation of the Office of the Provedor and draft immigration laws such as the Nationality Law and the Immigration and Asylum Law. The human rights unit has also been involved in the development of subsidiary forms of legislation, in particular the development of "standard operating procedures" for police and other actors in the field of law enforcement, including standard operating procedures in key areas such as arrest, detention, use of force and treatment of vulnerable persons.

United Arab Emirates

74. In April 2004, OHCHR participated in a five-day regional workshop on Dubai, organized to train Arab police officers with the participation of some 95 police officers from 14 Arab countries and resource persons from various Arab NGOs. The Dubai Police authorities announced that the workshop would be an annual event sponsored by Dubai Police.

VIII. Increased focus on the role of judges, prosecutors and lawyers

75. Judges, prosecutors and lawyers, particularly defence counsel, have a paramount role in defending human rights. It is in recognition of this reality that the Office of the High Commissioner issued in 2004 a new training publication entitled *Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers*, produced in cooperation with the International Bar Association. The Office is actively distributing this publication that is both a training tool and a reference work on human rights standards. As part of this process, the Office is actively promoting the use of this publication in technical cooperation projects, as well as its use by other United Nations bodies and specialized agencies, international and regional intergovernmental organizations and NGOs specializing in rule of law issues. OHCHR will be disseminating additional information and publications periodically to legal professionals.

76. The Office will continue technical cooperation projects aimed at organizing training and exchanges of experiences among judges, prosecutors and lawyers at the national, subregional, regional and international levels to progressively reinforce the role of judges, prosecutors and lawyers in the promotion and protection of human rights worldwide.

77. In this regard, a high-level international symposium on "The role of judges in the promotion and protection of human rights — strengthening interagency

cooperation", was held in Vienna in November 2003 at the initiative of the Foreign Minister of Austria and the United Nations High Commissioner for Human Rights, in cooperation with the United Nations Office on Drugs and Crime. The meeting marked the tenth anniversary of the 1993 World Conference on Human Rights and the Vienna Declaration and Programme of Action. The meeting adopted a Vienna Declaration on the Role of Judges in the Promotion and Protection of Human Rights and Fundamental Freedoms that stresses that this role of judges "is pivotal in the process of enabling people to assert their rights and in enforcing their claims to those rights". It also recommends specific action to strengthen the impact of judges in this area, to be taken by States, intergovernmental and non-governmental organizations. The Declaration makes special reference to conflict and post-conflict situations.

78. Following a series of consultations with national Chief Justices held in the Hague in November 2002, a draft code of judicial conduct, referred to as the Draft Bangalore Principles of Judicial Conduct, was revised and renamed the Bangalore Principles of Judicial Conduct. The Bangalore Principles, which address, inter alia, the issue of judicial corruption, were noted at the fifty-ninth session of the Commission on Human Rights (see Commission resolution 2003/39 and E/CN.4/2003/65).

IX. Future activities

79. The Office is currently in the final phase of implementing a project to develop guidelines that will help ensure the centrality of human rights in the administration of justice in post-conflict and post-crisis countries. The project has sought to identify the actual needs of the United Nations system through consultations with key United Nations partners as well as with other relevant external entities and an expert workshop will be convened in September 2004 to prepare rule of law policy tools. In addition, the Office plans to enhance its capacity to provide legal advice for the drafting of human rights-sensitive legislation, codes and regulations.

80. The Office is also reinforcing its capacity to address the relationship between international human rights law, international humanitarian law and international criminal law. It is planning to focus on issuing additional digests of jurisprudence that may be of use to judges and other legal professionals. It will also develop tools to assist States in respecting international legal obligations while protecting national security.

81. In 2005, OHCHR will issue a number of new rule of law policy tools, and will convene technical meetings to collect and analyse relevant experiences. Preparation is under way for tools relating to justice sector mapping; basic policy approaches to domestic prosecution for serious violations of gross violations of international human rights law and serious violations of international humanitarian law; guidance on approaches to the creation of truth commissions; legal system monitoring methodologies; a review of reconciliation approaches; and guidance on public sector vetting.

X. Conclusions

82. The promotion of the rule of law is predicated on the linkage between the promotion and protection of human rights and the rule of law, and on the recognition of these as the indispensable foundations for sustainable democracy. The Office of the High Commissioner will, therefore, continue to place particular emphasis on the promotion and strengthening of the rule of law in its technical cooperation programme as well as in other activities falling within its mandate and within available resources. In the United Nations system, the Office will continue to focus its efforts to provide greater support and advice to its key partners on rule of law-related issues, especially within the context of United Nations peace operations and the administration of transitional justice in post-conflict situations.

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Subregional Centre for Human Rights and Democracy in Central Africa

Report of the Secretary-General*

Summary

In its resolution 58/176 of 22 December 2003, the General Assembly welcomed the activities of the Subregional Centre for Human Rights and Democracy in Central Africa at Yaoundé and noted with satisfaction the support provided for the establishment of the Centre by the host country. The Assembly requested the Secretary-General and the United Nations High Commissioner for Human Rights to continue to provide their full assistance for the proper functioning of the Centre. The resolution also requested the Secretary-General to submit a report to the Assembly at its fifty-ninth session.

The present report provides an overview of the activities carried by the Centre as a contribution of the efforts by the United Nations to promote human rights and democratic principles and values in the Central African subregion, and the most significant developments since July 2001, the date of the last report to the General Assembly (A/56/36/Add.1).

* This report is delayed in submission to reflect updated information.

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I. Background

1. The United Nations Subregional Centre for Human Rights and Democracy in Central Africa was established in 2001 pursuant to General Assembly resolution 54/55 A of 1 December 1999, at the request of States members of the Economic Community of Central African States (ECCAS). The Centre operates under the auspices of the Office of the United Nations High Commissioner for Human Rights (OHCHR).

2. The Centre is designed to contribute to the enhancement of capacities in the promotion and protection of human rights, and to support the creation and/or strengthening of national institutions. The Centre also strives to contribute to the development of a culture of human rights and democracy in Central Africa for the prevention of conflicts and the promotion of sustainable peace and development.

3. In the fulfilment of its mandate, the Centre provides advice and technical assistance to Governments and civil society, runs programmes and organizes workshops on issues within its mandate. The Centre assists various partners at the national and subregional levels in strengthening capacities in the fields of human rights and democracy. In this regard, the Centre has developed an internship programme for graduate students and human rights non-governmental organizations (NGOs) from the Central African subregion.

II. Strengthening of the structure of the Centre

A. Composition of the Centre

4. The Centre became fully operational in March 2001. In June 2002, the High Commissioner for Human Rights officially inaugurated the Centre during a conference of Ministers of Justice and Presidents of Supreme Courts of the region on human rights reporting hosted and organized by the Centre.

5. The Centre has entered its third year of operations. It is composed of three international professionals: the Director, a Regional Democracy Adviser and a Human Rights Officer deployed to Yaoundé in 2002; an additional international Human Rights Officer joined the Centre from March to December 2003 in order to implement the activities financed by the United Nations Development Programme (UNDP) office in the Republic of the Congo. International staff members are assisted by three local staff, including a documentalist.

6. Support for the Centre's activities is provided through the regular budget of the United Nations. Nevertheless, in 2002, the Centre started the process of raising extrabudgetary resources to augment its projects and activities within the context of the OHCHR annual appeal for funds.

B. Structure of the Centre

7. OHCHR provides full assistance for the proper functioning of the Centre in the fulfilment of its mandates. Furthermore, the Centre has been requested to represent the Office at several major events. Since April 2003, the Centre assisted the Cameroon-Nigeria Mixed Commission, established to pursue peaceful ways of

implementing the ruling of the International Court of Justice on the land and maritime dispute between the two countries, during its sessions held in Yaoundé.

8. In addition, the Director of the Centre represented the High Commissioner for Human Rights at the *Conférence des structures gouvernementales chargées des droits de l'homme dans l'espace francophone* (Conference of governmental human rights structures in the Francophone area) held in Brazzaville in April 2003, organized by the International Organization of la Francophonie. This conference was an opportunity for the Centre to draw the attention of the participants to the responsibility of States to assume their international human rights obligations. The conference enabled the establishment of a network of governmental structures on human rights in the Francophone area.

9. At the request of OHCHR, the Centre contributed to the organization of two seminars. A seminar for Pygmy communities was held in Yaoundé and Sangmelima Mekas, Cameroon, from 13 to 15 November 2002. A follow-up to the seminar was held, with the theme "Minorities and indigenous people's rights", in Cameroon from 25 to 28 November 2003, in the framework of the human rights education programme. Participants came from civil society, pygmy communities and indigenous people's groups in Cameroon. Furthermore, the Centre, in collaboration with the OHCHR Anti-Discrimination Unit in Geneva, organized a seminar on the role of civil society in the implementation of the Durban Declaration and Programme of Action from 12 to 14 July 2004, in Yaoundé.

10. Within the framework of the OHCHR-UNDP Assisting Communities Together (ACT) project, the Centre awarded bursaries of US$ 5,000 each to three Cameroonian NGOs working in the field of human rights and peace advocacy. They are: Mbororo Social and Cultural Development Association which operates in the Northwest Province of Cameroon, the Centre for Human Rights and Peace Advocacy based in Bamenda, Cameroon, and the Union nationale des associations et institutions pour personnes handicapées du Cameroun, based in Yaoundé.

C. Strengthening of the Documentation Unit

11. The Documentation Unit was set up in November 2001. It publishes and distributes the Centre's quarterly newsletter, *Bulletin des droits de l'homme et de la démocratie*. Thus far 12 issues have been published. The Centre also issues several other publications, including periodic reports, quarterly bulletins and training materials.

12. The Documentation Unit provides services to more than 1,500 visitors per year. It is used mainly by the media, university students and researchers, and the general public in the subregion and beyond. The Documentation Unit also ensures dissemination and distribution of relevant human rights materials from OHCHR and other reliable sources in the region. In view of the growing public demand to access documentation resources, the Centre has initiated a human rights database and started developing country profiles in the field of human rights and democracy in Central Africa. Peacekeeping missions and other United Nations entities are benefiting from the expertise of the Documentation Unit. For example, in the context of the collaboration with the United Nations Peace-Building Office in Bangui (BONUCA), a Human Rights Assistant was sent by the Special

Representative of the Secretary-General to the Centre to undertake training on documentation techniques.

13. The Centre launched its web site in June 2002 (www.un.cm/rights) and it is now fully operational. A sensitization project using videos on human rights and democracy issues was set up in June 2003.

14. The Documentation Unit has developed partnerships with different African and international institutions such as the Danish Centre for Human Rights and the International Institute for Human Rights in Strasbourg, France, to facilitate information-sharing and capacity development. In this regard, the Centre was given and made use of fellowships for human rights documentation. The Documentation Unit has also benefited from the publications offered by the International Rehabilitation and Research Centre for Torture Victims.

III. Partners

A. Collaboration with the Economic Community of Central African States (ECCAS) and the African Union (AU)

15. In accordance with the memorandum of understanding (MOU) signed in July 2002 between the High Commissioner for Human Rights and the Secretary-General of ECCAS, the Centre provides advice and technical assistance to the ECCAS secretariat with a view to strengthening its analytical capacities and enhancing the operation of the Mécanisme d'alerte rapide d'Afrique central, MARAC (Central African Early Warning Mechanism). The objective of MARAC is to enhance regional capacity for conflict prevention. At the invitation of ECCAS, in 2003, the Centre participated in the preparatory mission to Pretoria to identify technical requirements for the establishment of MARAC and the development of the ECCAS web site.

16. In line with the 2002 MOU, and at the invitation of the Secretary-General of ECCAS, the Centre represented OHCHR at the eleventh Summit of Heads of State and Government of ECCAS held on 26 and 27 January 2004 in Brazzaville. The Centre continues to involve the ECCAS secretariat in all its subregional activities. Through its civil society capacity-building project, the Centre has contributed to the emerging partnership of ECCAS with civil society organizations in the subregion.

17. During the Summit, cooperation between ECCAS and the United Nations was reviewed. The participants called for a stronger United Nations presence in the subregion. This dialogue continued during the twenty-first regular meeting of the United Nations Standing Committee on Peace and Security in Central Africa, held in Malabo, from 21 to 25 June 2004. Although the Centre did not participate, that forum, which is organized by the United Nations Department for Disarmament Affairs, remains a useful tool for consultations on matters related to peace and security in the subregion.

18. The Centre participated in the Summits of the African Union in Mozambique and Addis Ababa in 2003 and 2004. During these summits, useful interaction took place with members of the Standing Committee. The final communiqués and declarations of the Summits drew attention to and welcomed the positive

developments in, among other things, the activities in the region of the United Nations in general and the Centre in particular.

B. Collaboration with United Nations agencies

19. The Centre has built strong partnerships with United Nations agencies in Cameroon and in the subregion, including the Economic Commission for Africa-Central Africa.

20. The Centre is greatly involved in the work of the United Nations Country Team (UNCT) in Cameroon. It has used this opportunity to highlight issues of human rights mainstreaming. As a result of the fruitful interaction with United Nations agencies represented in Cameroon, human rights focal points have now been designated within the country offices of the United Nations Development Programme, United Nations Children's Fund, Food and Agriculture Organization of the United Nations, United Nations Educational, Scientific and Cultural Organization, International Labour Organization, United Nations Population Fund, Economic Commission for Africa-Central Africa, and the Office of the United Nations High Commissioner for Refugees. Continuous exchanges of experience are now taking place between and among these focal points.

21. A joint United Nations-African Union team led by Mr. Ibrahima Fall, Special Representative of the Secretary-General for the Great Lakes region, visited the Centre in April 2003 and exchanged views on how the Centre can assist the Special Representative and the Special Envoy of the African Union in the preparations for the International Conference on the Great Lakes region. As a follow-up to this meeting, the Centre took part in a policy forum on peace, security and governance in the Great Lakes region, organized by the International Peace Academy. The Centre also facilitated the organization of a workshop on the integration of human rights in the process of the International Conference on Peace, Security, Democracy and Development in the Great Lakes Region, held in Yaoundé from 17 to 19 May 2004.

22. The preparation of the Subregional seminar on civilian-military cooperation during democratic transitions, organized with the collaboration of UNCT, the Office of the Special Representative of the Secretary-General in Burundi and OHCHR, took place in Bujumbura from 6 to 8 September 2004. Other key stakeholders represented at the workshop were the Secretariat General of ECCAS, BONUCA, the United Nations Operation in Burundi (ONUB) and the OHCHR New York Office and the Centre.

IV. Activities carried out from July 2001 to July 2004

A. Human rights activities

1. Training

Training financed under the regular budget

23. In accordance with the activities foreseen as described in the previous report (A/56/36/Add.1), the Centre organized the following subregional training programmes:

(a) A Workshop on the development of national plans of action related to human rights in Central Africa from 18 to 19 December 2001 in Yaoundé. Follow-up was done with the Comité national des droits de l'homme et des libertés (National Commission on Human Rights and Liberties) of Cameroon as well as with the new Commission des droits de l'homme du Congo (Commission on Human Rights of the Congo) on the development of national plans of action related to human rights in the framework of Human Rights Day 2003;

(b) During the official inauguration of the Centre by the High Commissioner for Human Rights, a subregional conference on human rights reporting for Ministers of Justice and Human Rights and the Presidents of Supreme Courts of Central Africa took place in Yaoundé on 13 and 14 June 2002. In follow-up to the conference, some countries have submitted reports to the treaty monitoring bodies as well as ratified outstanding conventions. A follow-up workshop was also organized by the Centre for the Ministry of Women's Affairs in Cameroon on 22 July 2004, on "Reporting to the Committee on the Elimination of Discrimination against Women (CEDAW)";

(c) In collaboration with UNDP-Congo, a training programme on reporting to treaty bodies, national plans of action for human rights and human rights mechanisms was held in Brazzaville from 16 to 20 December 2002, with participants from the civil service and NGOs. Participants at the programme called on the Government to establish national commissions of human rights and to ratify all major treaties related to human rights. The Commission was set up in September 2003;

(d) A workshop on military justice in Central Africa was organized from 13 to 15 January 2003 in Libreville for 22 military judges and prosecutors from States members of ECCAS. At the end of the workshop, participants adopted the Libreville Declaration in which inter alia, they called on the Governments that had not done so to ratify various international and regional human rights instruments and to include their provisions in national legislation;

(e) In collaboration with the UNESCO subregional office in Central Africa and with the contribution of other partners such as UNDP-Brazzaville and USAID, the Centre organized a workshop on "Media, human rights and democracy in Central Africa" in Malabo from 20 to 22 May 2003 for 25 private and public media professionals. The aim was to sensitize leading media personalities to enable them to advocate for the promotion and protection of human rights in the subregion. Participants were drawn from all 11 ECCAS countries. At the end of the workshop, participants adopted a common code of conduct for media in Central Africa. In follow-up to this effort, the Centre is publishing reference documents for media in Central Africa.

Training financed through the voluntary contributions

24. Partnerships with local and subregional NGOs were established. In June 2003, within the framework of the joint OHCHR-UNDP project aimed at strengthening the capacity of the civil society in the Republic of the Congo, the Centre provided training to 300 members of NGOs in Brazzaville. The project was on capacity-building for civil society in the Congo. One hundred and fifty senior students from the Marien Nguabi University and 150 NGO members participated. The outcome was a quantifiable improvement in the knowledge of participants with regard to

human rights promotion and protection. Furthermore, in the context of the agreement signed in 2002 between OHCHR and the Government of France, the Centre launched a project whose purpose was to strengthen the capacity of civil society organizations from 2002 to 2005 in Central Africa in the field of human rights and democracy. The project has been implemented by the Centre since July 2002 and will continue until November 2005. Many activities, such as organization of seminars, follow-up on recommendations and declarations adopted during past seminars, enrichment of the Documentation Unit's material, allocation of additional funds for the Centre's internship programme and grants to research institutions and NGO coalitions have been implemented. In the framework of this project, the following seminars were implemented:

(a) A workshop on the role of the civil society in the promotion and the protection of the rights of vulnerable groups took place in N'Djamena from 22 to 24 July 2003. Some 45 representatives of civil society organizations involved in the promotion and protection of the rights of women, children, minorities, refugees and the handicapped participated. A plan of action was drawn up and the N'Djamena Declaration adopted;

(b) A seminar on lobbying techniques for civil society in Central Africa took place in Libreville from 1 to 3 December 2003. The seminar was aimed at strengthening the skills of civil society leaders in advocating, campaigning and lobbying for human rights. Forty-five NGO leaders, civil servants and trade union leaders from 10 countries participated. A plan of action and a declaration were adopted and a follow-up committee to monitor the implementation of the outcome of the meeting was set up;

(c) A workshop on civil society, human rights and the rule of law was organized from 2 to 4 February 2004, in Kribi, Cameroon, for 32 participants representing Governments, national institutions, military judges and civil society organizations. A strong delegation from ECCAS as well as United Nations agencies including ILO, UNDP and UNAIDS also took an active part in the meeting. The objective of the seminar was to sensitize participants on the indivisibility and interdependence of all human rights, and on the indissoluble links between the promotion and protection of human rights on the one hand, and the consolidation of the rule of law, on the other. The workshop also provided an occasion to emphasize the central role of the judiciary in upholding respect of human rights and the rule of law. A biennial plan of action, a code of conduct for civil society, and strategies aimed at increasing the free and full participation of citizens in the political process were adopted;

(d) A workshop on women's rights and national legislation in Central Africa was organized in Kigali, from 17 to 19 March 2004 in partnership with the United Nations Development Fund for Women for 44 participants. The seminar provided a forum for an exchange of views on national experiences on this issue and best practices to encourage Governments to incorporate the provisions of the international instruments pertaining to the rights of women in their national legislation. The Kigali Declaration and Plan of Action were adopted, as well as various recommendations aiming at encouraging national Governments to ensure the full equality of men and women. A follow-up committee was also set up with a view to ensuring the implementation of the Kigali recommendations;

(e) The Centre organized another training seminar in Brazzaville, on 29 and 30 March 2004, on women journalists, human rights and the rule of law for 22 participants. A follow-up to the Malabo seminar of May 2003 on media, human rights and democracy in Central Africa, the Brazzaville seminar aimed at providing assistance to women journalists interested in learning ways and means of integrating issues relating to human rights and democracy in their work, to ensure better coverage of human rights issues and to make reference to international and regional human rights instruments so as to contribute to the promotion of human rights in the subregion. At the end of their deliberations, participants set up a subregional network of women journalists interested in human rights issues. National focal points were designated, and a subregional provisional unit was created to ensure coordination of focal points. Participants also adopted a draft code of conduct for women journalists as well as various strategies to enhance their work in the promotion of human rights in the subregion;

(f) A training seminar on the role of civil society in the implementation of the Durban Declaration and Programme of Action was organized in Yaoundé from 12 to 14 July 2004. Thirty-nine participants attended the seminar. The seminar aimed at sensitizing participants on the dangers that all practices of racism, racial discrimination, xenophobia and related intolerance represent for peace and on the urgent need for an implementation of the Durban Declaration and Programme of Action. At the end of the seminar, participants adopted core documents such as the Declaration of Yaoundé on the role of civil society in the implementation of the Durban Declaration and Programme of Action, a strategy and subregional plan of action, and a plan of action of the Central African youth relating to the Durban Declaration and Programme of Action. Participants set up a follow-up committee chaired by Cameroon and composed of the Central African Republic, the Democratic Republic of the Congo, Rwanda and Gabon.

2. Advisory services and technical cooperation

25. The Centre continues to provide technical cooperation to Governments, non-governmental organizations and national institutions, upon request. Already established national human rights institutions have benefited from this assistance, for example, in Cameroon. Those in the process of being formally established, such as those in the Republic of the Congo and Equatorial Guinea, have also requested the assistance of the Centre.

26. Many technical cooperation projects have been implemented that were targeted at NGOs and national institutions through collaboration between the Centre and the UNDP offices in the subregion. In March 2003, the Centre implemented two training sessions for the members of the Legal Aid Chair set up by the UNDP Justice and Human Rights Project. Forty-four members of the Legal Aid Chair attended the sessions and were sensitized to the mandate of OHCHR, the mandate of the Centre and its activities, as well as to the conventional and extraconventional mechanisms for the promotion and protection of human rights.

27. Furthermore, a two-day working session was held in 2004 at the Centre in Yaoundé with the United Nations Resident Coordinator in Equatorial Guinea on the design of projects for a human rights training project to be implemented during the years 2004-2006. This programme was intended for several groups of Equatorial Guinean society (women, journalists, armed forces, parliamentarians, prison

administrators, etc.). It will be implemented by the Centre and funded by UNDP-Equatorial Guinea.

3. Internship programme

28. The Centre runs a three-month internship programme for graduate students, human rights activists and representatives of Governments, national human rights institutions and civil society organizations involved in the promotion of human rights and the rule of law in the subregion. The internship programme commenced at the end of 2001.

29. Twelve interns from Cameroon, the Congo, Gabon, Rwanda and Chad were trained in 2001 and 2002. During the period from 2003 to 2004, 24 interns from Burundi, Cameroon, the Central African Republic, Chad, the Congo, the Democratic Republic of the Congo, Equatorial Guinea, Gabon, Rwanda and Sao Tome and Principe, and a staff member of BONUCA, were trained.

4. Support to human rights research and training institutions

30. Within the framework of the joint OHCHR-UNDP-Brazzaville project, the Centre provided training to 150 lecturers and students of the Marien Ngouabi University in Brazzaville in June 2003.

31. Furthermore, two institutions of higher education in human rights, namely the Association pour la promotion des droits de l'homme en Afrique centrale (Association for the Promotion of Human Rights in Central Africa), based in Yaoundé, and the Marien Ngouabi University Law School have been selected as beneficiaries of a US$ 3,000 allowance aimed at supporting the teaching of human rights instruments and issues. These funds have been provided under the partnership between OHCHR and the Government of France.

5. Human rights education

32. In the framework of the United Nations Decade for Human Rights Education, 1995-2004, a sensitization project, entitled "Human rights progress and challenges", has been set up. The project is based on the showing of videotapes on human rights and democracy issues, introduction to Internet research and debates, and was officially launched in October 2003. From October to December, the Centre implemented programmes on the following themes:

- Human rights: progress and challenges, 21-24 October 2003;
- Minorities and indigenous peoples' rights, 25-28 November 2003;
- Democracy in Central Africa, 11-12 December 2003.

The programme targets several groups including students, researchers, the military, parliamentarians, civil society organization leaders and lawyers.

33. In 2003, the Centre started a pilot project in Cameroon to assist the establishment of human rights clubs in high schools, with the first club inaugurated at the Lycée Tsinga in Yaoundé. This experience is intended to be replicated in the subregion with a view to enhancing the development of a culture of human rights and democracy in school environments.

B. Activities related to democracy

1. General aspects

34. The democracy programme of the Centre became operational with the arrival of the Regional Democracy Adviser in November 2002. The democracy programme focuses mainly on the promotion and consolidation of democracy and the rule of law as a tool for conflict prevention in Central Africa.

35. The Centre has established partnerships with universities, research institutions and civil society organizations in Central Africa and is working closely with the ECCAS secretariat as well as the United Nations entities in the subregion. Extra-African institutions such as the National Endowment for Democracy, based in Washington, D.C., the consortium of civil society organizations grouped together in the Africa Democracy Forum, the International Peace Academy based in New York, the Centre for Policy Studies based in Johannesburg, South Africa, and the Electoral Institute of South Africa have started collaborating with the Centre.

2. Conflict prevention

36. The Centre continues to assist ECCAS in the drafting of technical papers on the ECCAS early warning and conflict prevention mechanism and regional political integration. It also provided technical assistance to the United Nations Regional Centre for Peace and Disarmament in Africa in the preparation and conduct of subregional training on small arms and light weapons in Central Africa, held in Yaoundé in September 2003.

37. In June 2003, the International Peace Academy and the Mwalimu Nyerere Foundation, based in the United Republic of Tanzania, requested the Centre's cooperation in the preparation and organization of a seminar on peace building in the Great Lakes region. The seminar on peace, security and governance in the Great Lakes region, jointly organized by the International Peace Academy and the Office of the Special Representative of the Secretary-General for the Great Lakes Region in Kenya, in partnership with the African Dialogue Centre for Conflict Management and Development Issues (United Republic of Tanzania), the Mwalimu Nyerere Foundation, the Yaoundé Centre, and the Centre for Conflict Resolution (South Africa), took place in Dar es Salaam, from 15 to 17 December 2003. The meeting involved 60 diplomats, high-ranking military officers, academics and civil society actors, drawn largely from the Great Lakes region, and was the fourth in a series of seminars to address ways in which Africa's subregional organizations could increase their capacity to manage local conflicts. The seminar emerged out of the partnership of IPA with the Organization of African Unity and subregional organizations engaged in enhancing their capacities for conflict management and strengthening Africa's security mechanisms.

38. The participants developed a number of policy recommendations to outline the way forward for civil society organizations, Governments, regional institutions and international bodies in addressing the peace and security issues of the Great Lakes region. Specifically, participants emphasized the need to ensure that the International Conference on the Great Lakes Region succeeds in addressing the root causes of the conflict in the Great Lakes from regional and domestic perspectives; include civil society and women's groups in peace-building processes; and stem spillover effects from the illicit trade in small arms and light weapons.

3. Election issues

General aspects

39. The Centre assisted ECCAS in the design of a technical framework necessary for voter education, monitoring of elections, and in preparations for the creation of a regional network of parliamentarians. A number of projects of common interest have also been identified, notably in the field of community reintegration and the launching of the regional network of parliamentarians.

40. At the invitation of the Chairman of the Commission of the African Union, the Centre provided expert support on the occasion of the African Union/Eminent Persons brainstorming session on building an African Union for the 21st century, held in Addis Ababa in October 2003.

41. At the national level, two-day consultations were organized in Yaoundé in June 2002 with the National Elections Observatory of Cameroon in collaboration with the United Nations Resident Coordinator. In the Central African Republic, the Centre assisted BONUCA during the holding of its national dialogue. In this regard, consultations were organized between the Centre and the Office of the Special Representative of the Secretary-General in January 2003.

42. The Centre took part in the fourth meeting of the Africa Democracy Forum held in Durban, South Africa, in April 2003. Representing the Centre, the Regional Democracy Adviser attended the workshop for Central Africa's civil society organizations. He gave a presentation on the Centre and its activities in the field of human rights and the rule of law. Several civil society organizations from the subregion expressed their interest in working with the Centre. There was also a positive exchange of views on possible cooperation and funding with senior officials of the National Endowment for Democracy, which serves as the secretariat of the Africa Democracy Forum, and with other potential donors and partners.

Promotion of democracy and national elections: example of Cameroon

43. The Centre worked closely with the NGO Youth International Movement for Africa, based in Yaoundé, which prepared a training manual for education in electoral processes. The NGO requested the Centre's technical assistance in November 2003 for the preparation of the questionnaire and the finalization of the brochure on elections.

44. At the request of the Centre for Human Rights and Peace Advocacy, which is based in Bamenda, Cameroon, the Centre conducted on 19 and 20 April 2004 a training workshop on the rights-based approach to lobbying and advocacy on human rights and democracy issues. Thirty-four participants representing human rights NGOs and media organizations in the Bamenda area took part in the training. The workshop held plenary sessions and working groups. Each working group was assigned a human rights problem to be addressed by using the material provided by the trainer. Evaluating the workshop, participants expressed appreciation for the content and methodology of the two-day programme and requested the Centre to organize similar training in the Northwest Province. Special requests were also made to the Centre to disseminate widely information and documentation on human rights instruments and to include members of the armed forces in future seminars in Northwestern Province.

45. Furthermore, at the request of the Jeunesse volontaire des Nations Unies pour les droits de l'homme (United Nations Youth Volunteers for Human Rights), the Centre conducted a training workshop in Yaoundé on 10 and 11 June 2004 on the rights-based approach. The workshop was organized in five modules: international human rights instruments pertaining to democracy and the rule of law; the relationship between human rights and democracy; democracy, human rights and the culture of peace; the right to democracy; United Nations indicators of a free, fair and credible election; electoral observation; and mediation of post-electoral conflicts.

V. Conclusion

46. The existence of the Subregional Centre for Human Rights and Democracy in Central Africa has contributed to the increased recognition of the need to uphold and promote human rights and democratic principles by various stakeholders of the subregion. Networks of civil society organizations and media professionals have been set up with a view to promoting human rights and the rule of law.

47. Taking into account the increasing number of requests for technical assistance submitted to the Centre, the strengthening of the structure of the Centre and the allocation of additional funds should be envisaged to enable it to respond positively and effectively.